

A
CRITIQUE OF THE JUST WAR
IN
THOMAS AQUINAS AND GROTIUS



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INTRODUCTION.

Warfare is a complex phenomenon. There have been sufficient wars in history to suggest that fighting is either a normal human activity or an endemic human disease which men perpetuate although they consciously do not desire it. It has become a habit of humanity and closely woven into civilisation; it has been condemned as butchery and upheld as a gallant and gentlemanly

enterprise. War and the fear of war are shadows in the background of life yet close within one's own instincts; war signifies the safety of defence as well as the danger of destruction. It is indeed paradoxical.

Although warfare has been and is so much part of life it is not a human necessity and whatever forces generate it do not need to express themselves in such murderous ways. Men can live and die without experiencing it, and when it does happen are apt to accept it, with the complacency of human impotence, as they do the so called 'acts of God'. For warfare has something of the character of an earthquake or volcano, a natural disaster in which, in one way or another, man is helplessly caught up. It is indeed only a more violent manifestation of constant struggles between men and between groups due to natural instincts of competition and rivalry, but the degree of its physical violence sets it apart, and modern warfare has succeeded in startling if not shocking our consciences as never before. It has thought up disasters so huge and inhuman that they have unnerved our inertia, and shewn up how suicidal war is.

And so there has been a fresh looking into the problem. It can be judged as a tragedy, as sin, as catastrophe or sheer stupidity. In any case its most unfortunate victims are silent.

It can be studied from many points of view, political, legal, sociological, biological, psychological and spiritual. Yet compared with the advance of these studies in other fields, research into the causes and prevention and cure of war is, with the exception of international law, is very much behind. At the same time war is the carrot dangled in front of the technological donkey. Weapons of warfare are in the vanguard and express more than almost any other of man's recent creations, the intellectual perfection of his scientific and technological achievement. These facts may betray our faith in our own bad instincts, as well as the immensity of the problem.

Christianity is only one way of looking at life. It is nevertheless an incarnational religion, concerned with every aspect of life and every aspect of any human problem. A consideration of the Christian ethical teaching on war is thus only a consideration of one aspect of the Christian attitude towards it, although it is a vital aspect. Christianity is evangelistic and its ethics are influential. Modern warfare has stirred up thought in theological no less than in other circles and has caused heartsearchings about the generally accepted teaching. The fact that this teaching stems from a church which reveres tradition and has the support of its most powerful thinker means that it is of no little importance and influence.

Whatever the perfect Christian teaching on participation in warfare, Christians have to live in and confront a largely non-Christian world. To preach perfection and try to persuade men to accept it is not enough, and the realist who attempts to make a dangerous situation safe must not be underestimated. Whether peace on this earth will ever come about without the spiritual maturity of the human race might be a good subject for debate between lawyers and theologians. The claim that the way of Christian love is the only true and sure way even in the midst of human wickedness is one that has been sometimes perhaps too summarily dismissed as ineffective and a little nebulous. On the other hand it may be because law is confessedly such a secular activity that many Christians have perhaps undervalued and made insufficient use of the contribution made by international lawyers who, by building up a tradition of faith in reasonable and just dealings between nations and a technique of dealing with dangerous situations and disputes, have already done much to prevent and assuage outbreaks of hostilities. Lawyers have above all experience of the world and wisdom in accommodating affairs to what is humanly possible. The founders of international law were professedly Christian, as are many international lawyers in the modern world, and although the foundation of modern international law, which has to be acceptable to all, including non Christian states, is no

longer professedly Christian, this does not mean that its work is less vital or less the concern of Christians and churches.

Although in some matters there may be disagreement and the need for delicate discrimination as to the grounds and degree of co-ordination, there should be considerable mutual appreciation and co-operation between theologians and lawyers. Both must have to acknowledge uncertainties and inadequacies in their positions, and some understanding of these might be gained by looking into the work of one who has been acclaimed as the 'Father of International Law' and whose labours were inspired by Christian faith. r/

CHAPTER ONE

THE DEVELOPMENT OF THE CHRISTIAN ATTITUDE TO WAR BEFORE AQUINAS.

The early church did not encourage an elaborate theology of war. Christian communities were 'busy growing' during the persecutions, and intellectual discussions were focussed on the trinitarian and Christological heresies. Under the Pax Romana, the repression of barbarians at the frontiers had the character of police action against brigands rather than true warfare, while civil wars among aspirants to the emperor's throne could be more aptly termed insurrections. The problem first arose for Christians as a question of whether or not Christians should serve with the Imperial forces, and at first only a few were faced with the difficulty. The problem developed gradually.

Imperial service was for a period of about twenty years. Jews, and therefore Christians, with whom they were generally identified by the Empire, were exempt from military service, and the emperors obtained all the soldiers they needed by voluntary enlistment, many of the volunteers being sons of soldiers. And it was the Christians, sons of legionaries, or legionaries converted while they were still in the army, who first faced the dilemma, which does not appear in any significant dimensions until the second half of the second century. There is no evidence of soldiers entering the church before the time of Marcus Aurelius (161-180 A.D.).⁽¹⁾ And the Reproaches of Celsus (C.177 - 170 A.D.) prove that it was usual at this time for Christians to refuse to serve in the army. There is proof rather that many soldiers left the army after conversion, although, in the writings of Tertullian, there is also evidence that some Christians did join the army after conversion. Some church orders such as the Syrian 'Testament of Our Lord', the Egyptian Church Order and the Italian 'Canons of Hippolytus' required magistrates and soldiers to abandon their calling before baptism, and excommunicated Christians who

(1) Tertullian mentioned the testimony of Marcus Aurelius to the efficiency of the prayers of Christians who were fighting under him (Apologeticus 5.)

insisted on joining the army.⁽¹⁾

The question is discussed by most of the prominent early Fathers of the Church and the majority of opinions appear at first sight to be completely pacifist. Professor Ferguson cites as evidence for strong Christian objection to military service on the grounds of its sinfulness in involving the shedding of human blood, statements of many church leaders.⁽²⁾ He also refers to paragraphs in canonical letters, and concludes that there is a strong and definite rejection of warfare among most of the influential Christian thinkers of the early Church.

This is also the opinion of Cadoux. He stresses that the Church Orders of the third century forbade Christians to be soldiers, points out that no Christian author of this period undertook to defend Christian participation in war, and concludes that the strong testimony against war justifies one in accepting it as an expression of the general attitude and position of the early Church.⁽³⁾ From about the fifth century there was unanimous objection to the participation of the clergy in war.

- (1) Although in their present form these church orders date from the fourth century, they were probably earlier in origin, and may have been drawn up in the time of Tertullian.
- (2) John Ferguson. The Enthronement of Love, pp.37-50. Ignatius (d.100 A.D.), Tatian (second century A.D.), Athenagoras (second century A.D.), Justin Martyr (second century A.D.), Irenaeus (second-third centuries A.D.), Clement of Alexandria (second century A.D.), Origen (second-third centuries A.D.), Tertullian (second-third centuries A.D.), Cyprian and Lactantius (fourth century A.D.).
- (3) C. John Cadoux: The Early Christian Attitude to War, pp.246-7, and Harnack, as quoted by Cadoux, p. 97.

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This pacificism, however, was not absolute or unvaried. Some historians and theologians maintain that at this time the real and most fundamental objection to a Christian's participation in the army was that as a soldier he had automatically to take part in idolatrous ceremonies. Whatever the stronger reason, other factors contributed to the development of a different attitude which accepted warfare. Among these factors were the impression gained from the Old Testament that warfare could be divinely sanctioned; the employment of a number of military metaphors and illustrations in the Bible, particularly in the New Testament; the conception of God as a God of History who had revealed His purposes in the midst of and by means of certain wars, as, for example, the Jewish War of 67-71 A.D., which was regarded by many Christians as a divinely ordained chastisement of the Jews; and the Christian absorption of Jewish apocalyptic beliefs which resulted in the conception of the Messiah warring victoriously.⁽¹⁾ Thus many Christians considered toleration of any unjust aggression as at least foolish if not evil.

Even those writers who speak most strongly against war appear occasionally to tolerate it. One may wonder, therefore, if the denunciation is at some times an expression of fine feeling

(1.) Ibid., pp. 247 - 252

which at other times cannot meet the practical dilemmas or situations; or if some of the writers are thinking of defensive war when they give their assent and of aggressive war when they condemn. This uncertainty is much increased in the light of the political thought of the period. The Pauline justification of civil government as instituted by God,⁽¹⁾ a justification which was written before the outbreak of imperial persecution, in 64 A.D. with the object, in the main, of counteracting anarchy, was accepted by most early writers, including Clement of Rome, Polycarp, Athenagoras, the Apocryphal Acts of John, Theophilus, Hippolytus, Minucius Felix, Origen, Dionysius of Alexandria, Lactantius and Eusebius. It was not easy to distinguish between internal and external defence, and this acceptance of government as an institution ordained by God implied that not only judicial penalties but war also was right. Most Christians, then, believed that the state was divinely ordained in order to repress crime and violence with force, and at the same time that they, as Christians, must never harm or inflict suffering on their fellows, but must love and forgive. This contradiction was open in the writings of many of the Church Fathers, who in one place appeared to adopt a pure pacifism and in another to bless, sanction and support military force.

(1) Romans XLII.

Tertullian considered the question of whether Christians should enter military service most directly in De Idololatria and De Corona Militis; he was concerned about whether a believer should enter the army, and whether a soldier might become a Christian, and specifically noted that he was thinking of 'the rank and file', or 'each inferior grade', ⁽¹⁾ who would not necessarily have to take part in sacrifices or capital punishments. He was here concerned therefore with warfare rather than idolatry. He stated boldly that 'there is no agreement between the divine and the human sacrament, ⁽²⁾ the standard of Christ and the standard of the devil', and although he referred to the warfare of the Israelites, found it impossible for the Christian to serve even in peacetime, 'without a sword which the Lord has taken away'. ⁽³⁾

De Corona Militis was written in his later years in defence of a Christian who was imprisoned for refusing to wear the soldier's coronet. In it he argued that military service meant bowing to a master other than Christ, and again he referred to Christ's warning that he who takes the sword shall perish by it, as refuting the whole business of warfare, and questioned the right of a man who is forbidden to avenge even his own wrongs, 'to apply the chain and the prison, and the torture and the punishment, ⁽⁴⁾ Since a man is not to fight even for Christ himself, how can he do it for others?

(1) De Idol. Ch. XLX.

(2) 'Sacramentum in Latin has among its meanings 'a military oath'.

(3) Ibid.

(4) De Corona Ch. XI.

After having discussed the appropriateness to a Christian of the various crowns of worldly glory, he concluded that

'... there is not one which has any place with us; all are foreign to us, unholy, unlawful, having been abjured already once for all in the solemn declaration of the sacrament. For they were of the pomp of the devil and his angels, offices of the world, honours, festivals, popularity huntings, false vows, exhibitions of human servility, empty praises, base glories, and in them all idolatry, even in respect of the origin of the crowns alone with which they are all wreathed'. (1)

And yet in defending the usefulness of Christians to the Empire, he claimed that they take part in many important services.

'... we are but of yesterday, and we have filled every place among you - cities, islands, fortresses, towns, market-places, the very camp, tribes, companies, palace, senate, forum - we have left nothing to you but the temples of your gods...' (2)

This has been generally and often quoted as evidence of Tertullian's acceptance of Christian participation in warfare, but in the next breath he appeared to deny this by pointing out that it is only because their religion teaches that it is better to be slain than to slay that Christians were not 'fit and eager' for the wars. (3)

On the other hand, again in claiming that Christians play

(1) De Corona Ch. XIII.

(2) Apologeticus. 37.

(3) Ibid.

a full part in the life of the Empire, Tertullian mentioned that they 'fight with you'.⁽¹⁾ And in discussing Romans XIII, he did not quarrel with the office of the ruler as the executor of 'wrath upon him that doeth evil.'⁽²⁾

In many of his writings, Tertullian praised and upheld the position of the Emperor and the stability created by the Roman Empire. Christians he said regard the Emperor as a human being set next to God who has received his appointment and power from God, to whom alone Christians will pray and sacrifice on his behalf.⁽³⁾ To call the Emperor God is to rob him of his title of Emperor, for if he is not a man he cannot be an Emperor.⁽⁴⁾ And all reverence must be given to God if it is wished that He be propitious to the Emperor. The Christian treats the Emperor and his fellow-citizens with equal kindness and by regarding the emperor in his true light and placing him in subjection to the true God, the Christian is in fact doing

- (1) 'se we sojourn with you in the world, abjuring neither forum, nor shambles, nor bath, nor booth, nor workshop, nor inn, nor weekly market, nor any other places of commerce. We sail with you, and fight with you, and till the ground with you...' Apol.42.
- (2) Scorpiace 14.
- (3) Ad Scapulam 2. Apol.29,30,33,36. "There is also another and a greater necessity for our offering prayer in behalf of the emperors, nay, for the complete stability of the empire, and for Roman interests in general. For we know that a mighty shock impending over the whole earth-in fact the very end of all things threatening dreadful woes - is only retarded by the continued existence of the Roman Empire". (Apol.32)
- (4) Apol.33

more for his welfare than are those who idolatrously worship him, for they thus 'commend him more to the favour of Deity' ... 'so that on valid grounds I might say Caesar is more ours than yours, for our God has appointed him'.⁽¹⁾

Nevertheless, God was placed above the Emperor and claimed final allegiance from the Christian.⁽²⁾

It is generally thought that a similar ambiguity of attitude is found in Origen. In replying to the challenge of Celsus that Christians should help the Emperor with all their power and

"... fight for him and be fellow soldiers if he presses for this, and fellow generals with him"

Origen claimed that while it is against the faith for Christians to fight for the community and to kill men

"... Christians also should be fighting as priests and worshippers of God, keeping their right hands pure and by their prayers to God striving for those who fight in a righteous cause and for the emperor who reigns righteously in order that everything which is opposed and hostile to those who act rightly may be destroyed."

(1) Apol. 33.

(2) 'We have no master but God.' (Ad. Scapulam 5.)

They form a special army of piety through their intercessions to God.⁽¹⁾ He acknowledged that the Jews had found it lawful to fight in defense of their families⁽²⁾ but contracted this with the teaching of Christ which entirely forbade the taking of human life in any form at all however wicked men might be.⁽³⁾ In another often quoted passage he remarked that the so-called wars of the bees may teach us that if wars 'are ever necessary they should be just and ordered,'⁽⁴⁾ and later rebukes Celsus for his scant respect for governments and defensive wars.⁽⁵⁾

Elsewhere, however, Origen wrote more unequivocally against warfare. The time of Jesus' birth during the reign of Augustus he thought providential, because if there had been many kingdoms 'men everywhere would have been compelled to do military service and to fight in defence of their own land.' The Pax Romana ensured the success of 'this teaching which preaches peace and does not even allow men to take vengeance on their enemies.'⁽⁶⁾ Christians obey Jesus in bending the spiritual swords that fight and insult them into ploughshares, and the spears into pruning hooks.

(1) Contra Celsum, VIII.73

(2) Ibid., VII.26.

(3) Ibid., III.7.

(4) Ibid., IV.82.

(5) "... he treats as of no account the cities, state positions of authority and leadership, and wars fought for one's country not only of us Christians but of all men..." (Ibid., IV.83.)

(6) Ibid., II.30.

'No longer do we learn war any more, since we have become sons of peace through Jesus who is our author....' (1)

In replying to the argument of Celsus that if all behaved as peacefully as Christians profess to, the Emperor would be deserted and fall a prey to barbarians, Origen pointed out that indeed Christians do wish all including the barbarians to behave in this way. (2) But even if only the Romans were to be converted they could by the power of prayer overcome their enemies. (3)

Cadoux refers to the interpretations which have been put upon such passages, and acknowledges that many regard Origen as inconsistent or as justifying Christian participation in warfare even while holding up non-participation as an ideal. His own opinion is that Origen clearly believed that Christians should never fight. He notes that apart from the analogy drawn from the bees which does not specifically refer to Christians, all of the passages in which Origen approved of fighting explicitly refer to the warfare of non-Christians. Origen completely accepts the charge made by Celsus 70 years before that Christians refused to serve in the army and to act as magistrates. 'He speaks as if

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- (1) Ibid., V.33.
 (2) Ibid., VIII.68.
 (3) Ibid., VIII.70.

he was not aware that Christians ever took another line.⁽¹⁾ Cadoux also points out that, unlike many of his contemporaries Origen did not believe in the imminent return of Christ and that his eschatology did not therefore invalidate his witness on this point.⁽²⁾ Only once did Origen allude to the connections between idolatry and military service, which, Cadoux thinks, confirms that he objected to it because it involved killing. If he praises the Emperor and his righteous wars, he is only praising them as relative to a sub-Christian standard of morality.

Whatever the true opinion of Origen and Tertullian, however, there is no doubt that the church as a whole soon withdrew from an extreme position.

One explanation of these contradicting lines of thought, particularly when they occur in the same writer, is that the existence of Christians serving as soldiers in peace time was regarded as permissible, but not their fighting violently in time of war. Henri Secretan based this argument on the difference between 'militare', to be a soldier in peace time, and 'bellare', to fight.⁽³⁾ A less subtle and more likely

(1) p.140.(2)(c.f. Professor Reinhold Niebuhr's interpretation of pacifism as an interim ethic in An Interpretation of Christian Ethics.)

(3) Le Christianisme des premières siècles et le Service militaire, referred to by J.M. Hornus, in La pensée politique de Tertullien, p.144

solution is suggested by Cadoux. He claims that God's appointing a particular person or institution for a particular work does not necessarily guarantee the goodness of that person, institution or work, that the just ruler thought of by Paul is always a pagan ruler and his actions and position, since he is a pagan, are justified in a way that would be impossible were he a Christian. His theory is that the Christian justification of coercive government, and therefore of war, was only a justification relative to the non-Christian state of the agents concerned, and that it in no way prevented the Christian from behaving quite differently, and in accordance with the Sermon on the Mount. ⁽¹⁾ And he remains convinced that in spite of the contradictions and confusions which did exist with regard to the matter in the early Church, the majority were opposed to Christian participation in warfare. ⁽²⁾ Certainly no church writer before Athanasius ⁽³⁾ ventured to say that it was not only permissible but praiseworthy to kill enemies in war, without the qualification, expressed or intended, that he was speaking for pagans only.

Mgr. de Solages ⁽⁴⁾ sees in these two opposing tendencies

(1) pp.211-214.

(2) pp.245-6.

(3) Athanasius pronounced the legality of killing in warfare, as did Ambrose of Milan. (Ath. Letter to Ammonios Migne PG XXVI 1173. Ambr. Exposition of Luke II Migne PL XV 1580.)

(4) De Solages: La Théologie de la Guerre Juste, p.29.

forces which were both influential in the eventual formulation of the doctrine of the just war. Whether this doctrine did more to encourage rather than to prevent war in general is an interesting if unanswerable question, but in theory it was intended to limit and condition as much as to justify warfare, and this responsibility for controlling war might have been stimulated by the more pacifist thought within the church. The problem of reconciling these two differing standards and attitudes, God's sanction of at least the pagan sword, and His forgiving love revealed in Jesus, seems indeed to be a perennial one, and to be particularly connected with the question of the reconciliation of the gospel with reverence for the divinity of the Mosaic Law.

Gradually, however, the toleration of war increased. There developed a moral laxity within the Church which encouraged compromise with secular practices, the hope of the immediate return of Christ faded, and with it a certain unworldliness.⁽¹⁾ The accession and conversion of Constantine are rightly regarded as the events which, in a dramatic and ironic way, dictated a solution to the problem by more or less eliminating pacifist witness. The Church bowed to that vision of the cross which Constantine believed had helped him to military victory, and it could not but be grateful for the most obvious fruits of that success; the Emperor's blessing, protection and support, which gave her honour, eminence and power.

(1) Cadoux, pp.248-50

Uncertain, divided, intellectually immature and inevitably imperfect, she was in no position to denounce that military power which God Himself had apparently blessed, or to condemn so good a friend as Constantine. And so she managed to forget her hatred of warfare, carried the cross into battle as the imperial military emblem, and saw nothing incongruous or tragic in the fact that the supposed nails of the cross, sent to Constantine by his mother, were made into bridle bits and a helmet, which were used in battle.⁽¹⁾

Christianity became the official religion of the state, and the Church paid for her position by compromising the purity of some of her ideals, particularly her pacifism. The usual interpretation of the third canon of the Synod of Arles (314 A.D.) is that Christian soldiers were either to be excommunicated if they left the army, or at least that Christians could now freely undertake military service. In 416 A.D. non-Christians were forbidden to serve in the army.⁽²⁾

J.M. Hornus, however, contends that the command of the third canon, "Ut qui in pace arma projiciunt, excommunicantur" means that soldiers who threw away their arms, that is, refused

(1) Sokrates: Eccles Hist. 1.17. (quoted by Cadoux, p.256.)

(2) Codex Theodosianus XVI.X.21. The title of the canon is "Ut qui in pace, arma projiciunt, excommunicantur", and the text is "De his qui arma projiciunt in pace, placuit abstineri eos a communione."

to serve, in peacetime should be excommunicated, because then they would be creating a scandal unnecessarily, but that this rule does not forbid a Christian refusing to fight in war. He interprets the canon quite literally and believes that the usual interpretation is the fruit of the later and more militaristic attitude. (1)

It is interesting to note that such a strong pacifist as Dr. George MacLeod claims that this compromise protected the 'fragile flower' of the Church, and indeed preserved it, to root and spread and blossom in a wider field than if it had remained isolated in its purity and in danger of destruction. If the Church is to permeate society it will be touched and corrupted in return, and its own temptations and imperfections may well be magnified. But it must risk this for the sake of achieving an influence and a witness impossible to an inflexible perfection. Dr. MacLeod is satisfied that although the "Church got shackled... the State got tamed," and thinks that

'... if for the Church to be set up near the Emperor's palace was to risk being dictated to by the wisdom of this world, it was also a handy place when totally heathen hordes came down.'

He also believes that the first act of union with the state,

(1) La pensée politique de Tertullien, p.148.

although a primitive, imperfect and faltering one, was yet a vital stage in the evolutionary development towards the spiritualisation and santification of society.⁽¹⁾

Pacifism, an even frailer flower than the Church, perhaps deserving, indeed, to be described only as its tiniest unripe seed at this stage, was not dead. Apart from the Church orders which forbade participation in war for Christians, writers and martyrs, although in a minority, continued to bear witness to an ideal which was not in itself insignificant. St. Gregory Nazianzen (329-389) and St. John Chrysostom (347-407) wrote against military life,⁽²⁾ as did Basilus the Great, (330-379) who recommended that those who had shed blood in war should be denied holy communion for three years.⁽³⁾

As Pierre Lorson⁽⁴⁾ emphasizes, the lives of the saints teach and establish traditions as authoritatively as do theologians and preachers. The Church venerates both military saints such as St. Maurice, St. Louis, and St. Joan of Arc, and also those who were martyred for refusing to take up arms. Maximilian, a young man of twentyone years, made his stand against war because he believed that it was the right way for him, although on its being pointed

(1) The Church Prospect, p. 8.

(2) Migne PG XXXV. 608 & LVIII.590.

(3) Migne PG XXXII.681.

(4) Pierre Lorson S.J: Un Chrétien peut-il etre Objecteur de Conscience, p.81

out to him that other Christians willingly served as soldiers he accepted their right to think differently. He was martyred in 295.⁽¹⁾ On the eve of the battle of Worms in 341, St Martin confessed to the emperor himself that he could no longer fight. He said that it was impossible to serve God and fight for the emperor. When challenged that fear rather than sanctity was inspiring him, he offered to go into battle armed only with a cross, but was prevented by a sudden truce.⁽²⁾ A few years later St Victrice made a similar dramatic gesture in demonstration of his faith, and he was martyred.⁽³⁾ Throughout history, whatever the fashion in political or theological thinking, such individuals have offered a solitary and independent witness to a certain truth which possessed them. Thus, alongside the orthodox, authoritative and majority teaching and attitude of the Church, there has always existed this other thread of tradition, slender, apparently insignificant, but from time to time manifesting itself.

It is obvious that in the absence of any unambiguous tradition, and in face of the apparent uncertainty of the Scriptures (for those of both persuasions could use simple and isolated quotations, from the Old and New Testaments, with appropriate discrimination,

(1) Lorson, pp.82 - 4.

(2) Lorson, p.84.

(3) Lorson, pp.84 - 6. He refers to the historian M. Vacandard and to Collection "Les Saints", Paris, Lecoffre, 1902, as the sources of his information about the life of Victrice.

to support their own opinions), it was easy for the Church, perhaps with relief, to accept the more definite and straightforward secular ruling expressed in firm legal language. This was most adequately represented by Cicero, whose main virtue, according to De Solages⁽¹⁾ was to combine the accurate legalism of Rome with the universalism of the Greeks. Cicero made an explicit relation between the doctrine of natural law and that of a just war. The law of reason is so universal that it is an international bond between men, it contains and lays down the rules of justice which should regulate the relationships between nations, including that of war.⁽²⁾ That war is not unjust in itself is assumed by Cicero, but the conditions which should regulate its occurrence and conduct spring from international or universal reason, identifiable with the principles of justice. The unique aim of war is peace; it should not be undertaken if its end can be achieved by negotiation, and it should be carried out with moderation. It must also be preceded by a formal declaration.⁽³⁾ Justice, however universal its theme, did not mean for Cicero exactly what it does for us. Imperial glory, for instance, was for him, a legitimate motive for war, although such a war must not be fought with such intensity as others.⁽⁴⁾ And it is interesting to note, in view of a distinction of central

(1) p.33.

(2) De Officiis, III.6.

(3) De Officiis, I.11.

(4) De Officiis, I.12.

importance which will be investigated later, that de Solages considers that the Roman conception of justice was mainly formalistic.⁽¹⁾ He goes on to suggest that the theologians, notably St Augustine, accepted these outward principles, but managed so imperceptibly to suffuse them with the spirit of the Gospel and of inward justice that they became transformed into the Christian doctrine of the just war.⁽²⁾

St Ambrose (333-397) had already written on the justice of war. It is interesting that at one point he excused himself from a consideration of the question because he was writing for clerics.⁽³⁾ Many other ecclesiastical writers of the patristic age who had treated the question more or less indifferently probably accepted the ruling of Cicero because they respected his thinking in general.

It was St Augustine, then, who first firmly established the Christian doctrine. Whether or not he did thoroughly and rightly spiritualise the secular doctrine and the extent to which this was made possible by the Christian acceptance of the doctrine of natural law are indeed questions of vital importance. Augustine's firm and frequent treatment of

(1) p.39

(2) pp. 39 - 45.

(3) De officiis ministrorum.

the problem was categorical enough, and sufficiently weighted by his own eminence, not only to champion one side of the dispute but to silence those who held a more pacifist position. Nevertheless, he sought to comprehend the pacifist position within his own arguments. Thus was established a teaching which remained, with some slight alterations and additions, mainly unchallenged. It became the official doctrine of the Church and was often repeated, in slightly different words and forms, by the various theologians who inherited his thoughts and convictions. Many of the theologians, indeed, quoted Augustine word for word,⁽¹⁾ often without acknowledgement.

Augustine gave scant consideration to a war of defence, presumably because he took it for granted that such a war is immediately and obviously justifiable, and even obligatory.⁽²⁾ He neither seriously doubted the permissibility of war in itself, nor was he shocked by its intrinsic evil. A just war of aggression, however, must be carried out by authority of the prince, and must have both a just cause and a right intention. Mgr de Solages, although he attributes an important spiritualisation of the doctrine to Augustine, pays no attention to this third condition as such, and even explicitly omits it by speaking of the two conditions of the

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- (1) Augustine's main discussion on the topic is to be found in the following works: Contra Faustum, Ad Marcellinum, Ad Bonifacium, De Civitate Dei, Quaestiones in Heptateuchum.
 (2) De Civitate Dei, III.10.

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just war in Augustine's teaching.⁽¹⁾ Regout, though he seems to think it of little importance, does take into account the third condition,⁽²⁾ It is undoubtedly present in Augustine, who emphasized that a war inspired by a wrong spirit is not really a war but brigandage.⁽³⁾

Apart from the direct command of God, an injustice or wrong caused by the enemy is the only sufficient justification of war.⁽⁴⁾ One example of such an injury which Augustine gave is that of the refusal of the Amorites to allow free passage through their territory to the Israelites. Mgr de Solages notes this as for its time a unique recognition of a wider right coming into conflict with a narrower national claim, and says that we must wait until the time of Vitoria for a development of this theme.⁽⁵⁾ Regout allows that Augustine accepts punishment as an important element in the just war. However, although the only justification of war for Augustine - an injustice or wrong on the part of the enemy - would seem to imply the right of punishment, and in spite of Augustine's acceptance of war as a means employed by God to chastise and punish the just as well as the unjust,⁽⁶⁾ Regout states that this element was not centrally necessary to Augustine, and that

(1) pp.41-2.

(2) La Doctrine de la Guerre Juste, p.44

(3) Quid aliud quam grande latrocinium?" quoted from De Civ.Dei IV,1. (Migne P.L.41,117) by Regout, p.42.

(4) In Pentat. VI.10.

(5) p.44.

(6) De Civ. Dei XIX.15.

he was more concerned with defending and maintaining the objective order of justice than with an analysis of, and ruling for, the subjective spiritual issues.⁽¹⁾ The fact that Augustine found a just cause of war in the refusal to restore property unjustly stolen, and his whole concern for and love of order, appear to Regout to prove this. a/

St. Augustine certainly insisted on war as a means of restoring order and of achieving peace, and this latter aim sounds like a refrain throughout his writings. Since however, the precise relation between the actual horrors of war and this aim of peace were not discussed by him, his frequent references to peace in the midst of war must seem contradictory and unrealistic. War is fought for the sake of peace, but there is no recognition of the inherent contradictions in such a proposition. The importance of a right intention is powerfully in evidence here, but as merely colouring the motive with Christianity, while leaving the outward form of justice untouched. Is this a true spiritualisation of the pagan doctrine? Another two complementary factors which Augustine mentioned as essential for the justice of war, were that it should be 'necessary' and that it should be carried out with mercy. St Augustine certainly did not think killing and wounding incompatible

(1) p.44.

with loving the enemy, and such love and consideration even for the man one is planning to kill, though it little affects one's behaviour towards him, may be regarded by some as a Christianising of the spirit in which war is to be carried out. (1)

He noted that the just are not always victorious, but his answer to this was the rather unsatisfactory one that war is God's way of punishing the wicked and chastising the just, (2) for it may happen that, speaking generally, a war punishes the just and rewards the wicked.

From Augustine's time until the twelfth century there were few developments in the doctrine of the just war. St Isidore of Seville (560-626) introduced a term which was to become very familiar- Justum bellum est quod ex praedictis geritur de rebus repetitis aut propulsandorum hostium causa. (3) He repeats later that Nam extra ulcisciendi aut propulsandorum hostium causam, bellum iustum geri nullum potest, (4) and Regout, while admitting that it is possible to interpret 'de rebus repetitis' as punitive action, nevertheless thinks that it is more realistic to regard it as appropriate to a war of objective adjustment of rights. (5)

(1) "Bellum geritur ut pax acquiratur." Such a peace is "tranquillitas ordinis." (Ad Bonifacium, 189) "Ordo est parium dispariumque rerum sua cuique loca tribuens dispositio." (De Civ. Dei. XIX.13.)

(2) "Nam et cum iustum geritur bellum, pro peccato et a contrario dimicatur; et omnis victoria, cum etiam malis provenit divino iudicio victos humiliat, vel emendas peccata vel puniens." (De Civ. Dei. XIX.15.)

(3) Etymol. XVIII. 1.

(4) Etymol. XVIII. 3.

(5) p.46.

Pope Nicholas I. (858) elaborated the appropriate objects of defence. One can fight for the defence of oneself, of one's country and of one's laws. He added that to refuse such defensive action would be to tempt God.⁽¹⁾

Rufin's (1056) theories followed closely those of Augustine. Regout interprets them as justifying above all and in all circumstances the defence of order and legality, but he also maintains that such defence is in fact to be considered as a form of penal sanction against criminals.⁽²⁾ Yves de Chartres (1040-1116), the most important canonist of his time, made no original contribution. Although he referred to Isidore, he is mainly dependent on Augustine, and so witnesses to the predominant position of the latter up to this time. Abelard (1079-1142) was likewise a traditionalist.

The most important writer on war in the eleventh century was Gratian (1150), who not only wrote directly upon it but also collected and edited the writings of others on the subject. He arranged his material according to six main questions: whether it is a sin to make war; which kind of war is just; whether one should by force of arms avenge a wrong suffered by one's allies; whether an act of vindication is permissible; whether heretics can be

(1) Responsa Nicolai ad consulta Bulgarorum, 46 (Migne, P.L. 119, 998)

(2) p.47

converted by such a method; and whether clerics should fight. Using the scholastic method, Gratian limited all the objections to the points in question, quoted the traditional answers, mostly from Augustine, and usually added brief conclusions of his own.

By explaining that the Gospel recommendations of patience were meant to apply to spiritual attitude rather than to bodily action, Gratian accentuated in a new way the separation between subjective attitude and external act.⁽¹⁾ Regout naturally interprets Gratian's attitude as similar to his own, that is, that Gratian did not think of war as necessarily punitive,⁽²⁾ This impression is supported by the fact that Gratian elsewhere distinguished between punishment and vindication,⁽³⁾ and Regout thinks that this distinction, together with the consideration of vindication as a thing in itself,⁽⁴⁾ marks the beginning of a tendency to treat punishment and vindication separately as elements not essentially involved in war, but sometimes accompanying it, or additional to it. This is connected with another later development of attitude wherein the punitive element was entirely

(1) Can. 7, C. XXIII, Q.1.

(2) p.63.

(3) Can. 2, C. XXIII, Q.2.

(4) Regout as usual, maintains that the object and justification of war is the organisation of justice, no matter how abstract such justification might seem to be. (p.66.)

eliminated from a defensive war and reserved only for some offensive wars of aggression. As the punitive element, if it exists at all, is related to the sin or moral guilt of the enemy, this distinction seems illogical, since one is more justified in punishing those who attack one than in attacking others in the name of punishment. Gratian himself was little interested in the punitive element in war, for in the fiftyfour canons of Question IV, in which he treats of vindication, there is no mention of its relevance to war. Nowhere did he give a clear answer to the simple question of whether one people has the right to inflict punishment upon another either during or after a war.

A special study of the doctrine during the eleventh century has been made by Dr. Gorris in Denkbeelden, and the following summary of the essential conditions for a just war (war not being considered as wrong in itself) reveals that by then the only new element, and a controversial one at the time, was the idea that war should be fought in defence of the church:

1. It should be absolutely necessary and the ultimate resort.
2. It should be undertaken for a just cause, or - which amounts to the same thing - with a pure motive.
3. It should be authorised by the proper public authority.

The defence of one's native land and of the Church were thought to be particularly strong justifications for making war.⁽¹⁾

Up to the twelfth century, then, only Isidore had contributed anything significant to the Augustinian doctrine.⁽²⁾ Historical events such as the Moorish invasions brought no significant alterations into it, nor did the social and political conditions of the middle ages, such as the feudal system, the lack of a centralizing authority and the actual prevalence of continual private wars. Such things are not even reflected in its development.

But in the twelfth and thirteenth centuries social and political conditions did influence the evolution of the attitude to war, although they never influenced Aquinas's thinking on it.

After the weakening of the empire under Charlemagne's successors, imperial power disintegrated and fell into the hands of a multitude of dukes, counts and barons, who used it partly to withstand the Normans, Hungarians and Saracens, and partly to fight each other. The feudal system which was at its zenith in the tenth and eleventh centuries, had contributed to such a situation. Efforts such as the 'Treve de Dieu et de la Paix' were sometimes made by the Church, and later by confederations of the princes

(1) Regout, p.49.

(2) Ibid.

themselves, to limit these conflicts, but in the absence of any superior and acknowledged centralising power which had the powers of arbitration, they could not, according to the popular doctrine, be condemned; any injury was sufficient to aggravate a just war. X

From the twelfth century onwards there was a considerable change. During the thirteenth century the king of France became a real power. Energetic action was taken, in collaboration with merchants and municipalities, against these private civil wars and this centralisation of national power became manifest and influential in international relations too. The great sovereigns such as Phillip Augustus, St Louis of France, Ferdinand III of Castille, and Henry II and Henry III of England, by becoming more free and independent in their strength, solidified the unity of their nations. The modern national states were, in fact, in the process of being born. 07 d/

At the same time, the idea of the unity of Christendom under pope and emperor was developing, even though it was an idea somewhat contrary to the facts. The memory of the glory of the empire had been stimulated by the careers of Charlemagne and such lesser rulers as Otto I and Otto III. The pontificates of Gregory VII, Innocent III and Innocent IV also helped to revive the idea of a united Christendom. The intense study of Roman law begun at Bologna in

the first half of the twelfth century furnished new arguments for imperialism, and although by the middle of the thirteenth century imperialism as a reality was broken, and although in the fourteenth century the powers of the popes were diminished, the conception of imperialism was deeply rooted and still found advocates from time to time.

Nevertheless, Regout claims, quoting Chénon, the study of Roman law in the long run encouraged the development of petty autonomies, and in the twelfth and thirteenth centuries real power passed from the hands of emperor and pope into those of independent princes.⁽¹⁾ At first the French kings feared that the claiming of 'sovereign rights' by a multitude of petty rulers might challenge the authority of the crown, but by 1303 they had discovered in the concept that "Le roi de France est empereur dans son royaume" a means of entrenching and reinforcing that authority. While such theories were unpopular with canonists and theologians, they certainly helped forward the establishment of national kingdoms. Regout thinks that the opposition between the diverse princely autonomies, which existed in fact, and the idea of a politically united Christendom under pope or emperor, which existed only as an abstract notion, affected mediaeval theories of the just war.⁽²⁾

Most of the writers of the period, including Innocent IV

(1) Chénon: Histoire générale, tom.1.pp.506.55, referred to by Regout,
 (2) p.54. p.54.

and Aquinas, accept the autonomy of a multiplicity of petty princes as quite natural, but not all of them did so.

Hostiensis (c.1200 - 1271), for example, considered that it was the duty of pope and emperor to co-operate in maintaining justice and law throughout Christendom. They alone, he held, should have the power to authorize war, whether against infidels or against subjects and subordinates who had broken some internal law of the 'state'. A subordinate prince, therefore, could only take up arms with the permission of, and consequently, on behalf of, emperor or pope. To Hostiensis the term 'war' could be properly applied only to acts of aggression against his ideal unified Christendom. He did, however, make certain exceptions. A war of self-defence and the killing of assassins and those who had given refuge to criminals he thought permissible even without the authority of emperor or pope.

Otherwise, the major writers accepted the situation in which the emperor was too weak to exercise power throughout Christendom and in which the princes were too strong and too accustomed to administering their own versions of justice ⁽¹⁾ to submit to the emperors. ⁽²⁾ Their writings, therefore, are grounded in this acceptance.

(1) Natural, as opposed to the particular legal justice of the emperor. See Regout, pp.55-6.

(2) Opposition between the fact and the ideal is perhaps most clear in some of the writings of the Italian canonists and moralists of the fifteenth century, who speak of the right of undertaking war as belonging de jure to the emperor and de facto to the petty princes. Such confusions were matched by general lack of distinction between the various 'types' of war - insurrection, defensive war, individual defence, and so on.

A further division among the writers of the time is noted by Regout.⁽¹⁾ The imperial unity envisaged by Hostiensis, he says, was fundamentally a political one made complete and explicit in the supreme integrating power of the emperor. The theologians as well as the canonists, however, had a notion of unity, and for Aquinas this was based on the natural equality and brotherhood of man before God, particularly as realised in the Christian community. For Aquinas, the independence of separate states did not contradict their subordination in the hierarchy of the international community. And in spite of the conflicts of ideas and confusions of facts, the religious unity in mediaeval times was a very strong binding force. War, however and by whomsoever justified, was always regarded as tragic, and many writers stressed the need for finding ways of preventing it. In fact many outbreaks were prevented by the intervention of popes who, by virtue of their material and spiritual authority over various states and rulers, contrived to make their arbitration effective.

In several ways the doctrine of the just war itself underwent some "Christianisation." It was often repeated that clerics should take no part in war but that the Church has a right to declare war equal with that of a prince.⁽²⁾ Such views were held by Raymond

(1) p.56.

(2) Raymond of Pennafort: Summa, Lib.II.V.12.Q.5.

of Pennafort (1180 - 1275), for example, who wrote that just intention is essential for a war to be just and that such a 'just' war must be conducted in a spirit of piety, justice and obedience. He made the usual allowances for acts of self-defence - where life is at stake it might be defended without waiting for direction from the supreme authority - and went on to distinguish an ordinary war of defence from one for the recovery of goods (repetere res), which he regarded as a continuation of defence and quite distinct from a war of aggression.⁽¹⁾

Regout thinks that the recovery of goods is to be distinguished from defence only in so far as it is regarded as a continuation of it, and that a war of aggression is a quite different matter. It is in Raymond, he thinks, that there appears for the first time this idea of a continuation of defence (in continenti) which may have the appearance of an aggressive act.⁽²⁾

Innocent IV, another influential thirteenth century canonist, wrote of war from a legal rather than from a moral point of view. Although he sometimes affirmed papal pretensions to spiritual and temporal power with vigour, he did not really believe them to be practically efficient or strong enough to limit the actual and practised princely right of declaring war. In justifying the latter he no doubt took into account the actual weaknesses of the empire.

(1) Ibid., Summa, Lib. I, C.Q.5.

(2) p.68.

Although he did not say so explicitly, a defensive war seems to be deprived of its punitive character mainly because in some circumstances it is legitimate even without the authority of the prince and because it may have a spontaneous, impulsive character which does not lend itself to the proper administration of punishment. He regarded neither personal defence nor the judicial action of prince or sovereign against a subordinate as coming under the heading of warfare. War, properly speaking, is an action carried out by a prince who is answerable to no higher authority than himself against strangers not normally subject to him. Although he regarded the recovery of goods by action in continenti as permissible in itself, he thought that after the lapse of a certain interval of time such action amounts to a fresh act of aggression and requires fresh justification. (1)

Alexander of Hales (1170-1245) raised the interesting question of whether or not soldiers should obey an unjust prince. (2) He not only discussed the stock question of whether or not clerics ought to fight, but decided that a war-making party required right sentiments, as well as a right intention. Regout remarks that although for Alexander an offensive war has a strongly punitive character, a defensive war is for him without this element.

By the time of Aquinas the Church had come to a more or less unanimous opinion on the most vital questions associated with the morality of war. The matter did not disturb many consciences, although the canonists and theologians continued to devote a certain amount of space to it.

(1) Regout maintains that Innocent IV makes the necessity of defending one's proper rights primary, punishment secondary. (p.72.)

(2) Summa. Pars. lll.

CHAPTER TWO

THE DOCTRINE OF THE JUST WAR IN AQUINAS

In the Second Part of the Second Part of the Summa Theologica ⁽¹⁾ Aquinas dealt with war as one of the sins contrary to charity and peace. He first considered discord, an inward sin; secondly contention, a sin of the tongue; and finally those sins which result in actions - schism, quarrelling, war and sedition.

Aquinas first discussed whether war in itself is wrong, and, if not, in what circumstances it can be justified. He then went on to deal with the questions of whether or not clerics should fight, whether it is lawful for belligerents to lay ambushes in war, and whether fighting on holy days is permissible.

The first two objections noted against the justice or

(1) Q.xl.Art. 1 - 4.

righteousness of war in itself claim that Holy Scripture reveals that it is so, in the following texts:- "All that take the sword shall perish with the sword";⁽¹⁾ "But I say to you not to resist evil";⁽²⁾ "Not revenging yourselves my dearly beloved, but give place unto wrath".⁽³⁾ The third states that war is contrary to the virtue of peace, and the fourth that warlike exercises, being already forbidden by the church in tournaments, are obviously sinful. Aquinas then gave a preliminary general answer by quoting Augustine's argument⁽⁴⁾ that John the Baptist⁽⁵⁾ would have counselled the soldiers to throw away their arms and give up soldiering altogether if warfare had been essentially against the teaching of the Gospel, instead of recommending them to be content with their pay and to do no violence.

Aquinas's answer, which includes his particular replies to the objections, revolves round the three main conditions of a just war, right authority, sufficient cause, and right intention.

(1) Matt. XXVI. 52.

(2) Matt. V.39.

(3) Rom. XII. 19.

(4) Ep. ad Marcellinum. CXXXVIII.

(5) Luke. III.14.

He argues, quoting from Augustine, ⁽¹⁾ that to take the sword means only to take it unlawfully, but that to use it in obedience to the proper and appropriate authority of sovereign or prince is just and not sinful. These words must be interpreted spiritually, for even where the sword is wrongly taken, the opportunity of repentance may intervene between the sin and its punishment, which in any case, as the natural death of many such sinners proves, is not necessarily death by a literal sword, but spiritual death by a sort of spiritual sword.

The importance of a right authority is paramount. No private person has the right to assemble troops and declare a war; if such a person has a serious grievance it is his duty and opportunity to apply for just vindication from the appropriate political authority superior to him. Those in power, whether sovereign or judge, have the responsibility of defending the common good of their subjects against both internal and external enemies; this duty is pre-eminent; "Rescue the poor and deliver the needy out of the hand of the sinner". ⁽²⁾ They are thus

(1) Contra Faust. XXII.

(2) Psalm LXXXI. 4.

justified in killing and in ordering to kill, and in fact any 'public person' can, even without any superior human authority, have recourse to the sword if he be truly inspired by a zeal for justice. His authority, like that of the sovereign, comes ultimately from God:- "He heareth not the sword in vain; for he is God's minister, an avenger to execute wrath upon him that doeth evil."⁽¹⁾

Such authority however must be exercised for a good reason and in a righteous cause. Aquinas stated that the enemy must be attacked "because they deserve it on account of some fault", but was otherwise satisfied to give Augustine's definition of the just cause:- "A just war is wont to be described as one that avenges wrongs, when a nation or state has to be punished for refusing to make amends for the wrongs inflicted by its subjects, or to restore what it has seized unjustly".⁽²⁾

Such action is deemed and intended to bring about the good of either the community, "the common good", or those against whom

(1) Romans. XIII.4.

(2) Q.Q. in Hept., qu.x., in Jos.

one is fighting, and this in itself proves that non-resistance is only occasionally appropriate and is not intended by God to be always practised. Augustine was quoted again to prove that resistance is often better for the enemy as well as for oneself, "since nothing is more unhappy than the happiness of sinners". (1) Aquinas and Augustine agreed, however, that the Gospel precepts of non-resistance should be kept in mind, and that we should be ready to obey them except when they contradict the common good.

In his reply to the third objection, Aquinas distinguished between true and false peace, and argued that Jesus did not come to bring the latter (2) and that war can be transformed into true peace by the spirit in which it is fought. Just as the absence of war can be evil in some circumstances, so war's obvious horrors can be redeemed by a purpose of bringing peace to both sides. One can be peaceful in warring. (3) A good intention, one of securing peace, punishing evildoers, and helping the good, is essential for a just war. A wicked intention can render wars which, have a just cause and being declared by the right authority, are otherwise just,

(1) Ep. ad Marcellinum CXXXVIII.14.

(2) Matt. X.34.

(3) Aquinas quoted Augustine - Ep. CLXXXIX ad Bonif.

unjust.

A reply to the fourth objection is that only those warlike exercises which result in death or plunder are forbidden.

Interestingly enough, the objections to the non-participation of clerics in warfare, the topic dealt with in the next article, are all based on the assumption that war is justifiable for Christians. It would seem even more justified therefore for clerics, since they have the particular duty of protecting and defending their flocks, and by not merely allowing but encouraging their people to fight they share with them the responsibility for such action.⁽¹⁾ Since war has been accepted as not only permissible but as worthy of praise and heavenly honour it is surely an activity in which clerics should be privileged to join. And in fact on occasions they have done so, as is shewn in the writings of Pope Leo IV.⁽²⁾ Aquinas noted that the outstanding argument against such objections appears to be the incident in the Gospel where Peter, representing bishops and clerics, is, on drawing his sword to defend Christ, told by him, "Put up again thy sword into the scabbard".⁽³⁾

(1) "They who do such things, are worthy of death and not only they that do them, but they also that consent to them that do them" Romans 1.32.

(2) XXIII., Q.VIII., can. Igitur.

(3) Matt.xxvi.52 cf. John.XVIII.11.

The centre of Aquinas's argument against the participation of clerics in warfare was that they have a particular vocation, a uniquely spiritual and a spiritually superior vocation which precludes it. Even the emergency of war which certainly revolutionises the organisation of society and interferes drastically with the proper vocations of other men, and even the urgency of having to defend one's life, does not justify them in fighting. Literal military activity would prevent a cleric from his proper duty at that time, which is to pray for victory, to contemplate God in peace, and to fight in every way with spiritual weapons. St Paul's words, "The weapons of our warfare are not carnal, but mighty through God",⁽¹⁾ were here made to apply only to clerics, as were "No man, being a soldier to God, entangleth himself with secular business,"⁽²⁾ the word 'soldier' obviously being considered purely metaphorically. Clerics are to exhort and encourage their flocks to fight materially, absolving them from their sins and praying for victory, and using their own divine methods and instruments as did the priests of Joshua, who were at the forefront of the march only for the purpose of blowing their sacred trumpets.⁽³⁾ Such spiritual work is ranked as

(1) 2 Cor. x.4

(2) 2 Tim. II.4.

(3) Jos. vi.4.

transcending in virtue and by no means contradicting the material activities of warfare as the effects of the trumpet blasts on the walls of Jericho shew.

On the other hand Aquinas allowed that there is something essentially unChristian in the shedding of blood, even in a just war or cause, since in itself this act is completely incompatible with the administration of the sacrament of Christ's body and blood. Instead of engaging in earthly warfare clerics should be willing rather to shed their own blood for Christ's sake. Even those who shed blood sinlessly become irregular:

"Wherefore it is altogether unlawful for clerics to fight because war is directed to the shedding of blood."

All the faithful should have as their end in warfare the Divine spiritual good. Therefore clerics who encourage men to partake in a just war are as sinless as those who engage in it. Nevertheless different means are appropriate to different personalities and orders of society, since 'every power, art or virtue that regards the end, has to dispose that which is directed to the end.'⁽¹⁾ And warfare does not become the personality of a cleric.

(1) S.T. II. II. Q. XXIII., Art. 4, ad 2.

In the third article Aquinas considered whether it is in war ever lawful to deceive the enemy by laying ambushes, since deception and lies appear to be opposed to the virtues of faithfulness and justice, and to contradict the precept that one should love one's neighbour, which includes one's enemy, as oneself. Aquinas remarked that in spite of this Augustine had already claimed, ⁽¹⁾ on the Biblical evidence that the Lord commanded Joshua to lay ambushes for the city of Ai, ⁽²⁾ that it is no concern of justice whether a just war be carried on openly or by ambushes.

Aquinas himself made a distinction between the deliberate and explicit deceit expressed in an external deed, such as a lie or the breaking of a promise, ^{and} that which is effective through silence, whereby we withhold certain facts and ideas from our neighbours. The first he condemned outright for we have the duty of preserving the rights even of our enemies. These rights, however, do not include our telling our neighbour everything we are going to do to him. Concealment of intentions, therefore, is permissible, and since Aquinas gave in definition of 'ambush' nothing more than 'concealment of plans' (apparently ignoring the more positive aspects) he would allow ambushes to be lawfully employed in a just

(1) Q.Q. in Heptateuch. qu. X., in Jos.

(2) Jos. viii.2.

war. He quoted Jesus' warning that we ought not to give that which is holy to dogs⁽¹⁾ and stressed that it is even more important for a soldier to learn the art of concealing his purpose from the enemy.

The fourth article is concerned with whether it is lawful to fight on holy days. The main objections to the idea arise from the Old Testament attitude to the Sabbath,⁽²⁾ which prescribed rest and rejected strife. Again there is an allusion to fighting as itself an intrinsically wrong activity which should not be participated in on a Sabbath, even for the avoidance of material harm. The most obvious Scriptural evidence against this attitude is the decision of the Maccabees to fight on the Sabbath.⁽³⁾ Aquinas further pointed out that Jesus himself healed a man on the Sabbath, and that his answer to the questioning of the Jews on the matter is sufficient answer to this question.⁽⁴⁾ For the good end of safeguarding the commonwealth (whereby many are saved from being slain and innumerable evils both temporal and spiritual prevented) is even more justified than the saving of the life of one individual. Neglect of such a duty said Aquinas, would be to tempt God.

(1) Matt.vii.6.

(2) Exod.xx.8. Isaiah lviii.3.

(3) 1.Macc.ii.41.

(4) John. vii.23.

A summary of Aquinas's pronouncements on the subject is given by Mgr. de Solages, who places his consideration of Aquinas's thought at the beginning of his book because, as he says, most theologians connect the doctrine with him.⁽¹⁾ It should not be forgotten, however, that the importance of the doctrine of the just war in Aquinas is due rather to his general eminence and that of the Summa Theologica in which it appears than to any original or outstanding treatment or exposition of the subject by him. The subject of war had not been included in Peter Lombard's Sentences,⁽²⁾ the accepted theological handbook for three centuries during the middle ages, and it is likely that this is why leading scholars such as Albert the Great, Bonaventure and Duns Scotus ignored it. By introducing it into a work which in fact replaced the Sentences, Aquinas ensured for his treatment of it a certain importance and authority.

Mgr. de Solages is surprised that Aquinas's only discussion of war occurs in a treatise on charity, wherein Aquinas considered war as one of the sins opposed to this virtue, rather than in relation to justice, his point being that war is more related to a

(1) La Theologie de la Guerre Juste, p.9.

(2) Ibid. p.17

natural virtue such as justice than to a supernatural one such as charity.⁽¹⁾ However, Aquinas said nothing at all about charity but referred to justice some thirteen times. Mgr. de Solages also regrets that Aquinas considered war as an individual, subjective, religious problem. Assuming a clear ethical distinction between objective and social justice, and subjective individual morality, Mgr. de Solages reckons war as essentially a problem of the former. it is for him, therefore, only indirectly a question for strictly religious casuistry.⁽²⁾ Mgr. de Solages complains that later theologians turned the question of the third condition for the just war, the fulfilment of a right intention, into a consideration of the manner in which it is carried out. Mgr. de Solages thinks this alteration unjustified. Clearly, he says, Aquinas is not here writing a treatise on natural law or politics, but is touching on individual moral problems in the context of dogmatic theology.⁽³⁾

(1) p.18.

(2) p.18.

(3) p.19. Yet note Mgr. de Solages's own omission of the condition in his discussion of Augustine's doctrine, p.26 above.



Another common complaint is that Aquinas's doctrine in no way reflects or is adapted to contemporary political, ecclesiastical and social conditions or ideas, such as feudalism, Christianity and imperialism. The abstract and impersonal style of Aquinas reinforces this impression. Certainly the first condition, that war must be declared and conducted by the authority of the sovereign, is inadequately related to contemporary political conditions. It means, of course, in a general way, that war must be waged by the person or persons who hold appropriate political authority, but who, in the thirteenth century, such persons might be, was a rather delicate question needing serious discussion. To assume that the 'prince' is meant, in a society so abounding with princes and petty rulers that they might from an international point of view be considered rather as private than as public entities, while in fact an emperor did exist, was paying tribute to or at least acknowledging the existing state of affairs as ideal or acceptable rather than trying to outline a better one. He ignored the fact that at the time all kings and princes were subject to the emperor and could not officially make war without imperial sanction. The emperor

and his pretensions to imperialism may not have been in fact effective, but they were highly developed in theory. Aquinas, however, passed over them in silence even though they were mentioned by contemporary canonists. By allowing the sovereign the ultimate power to make war, Aquinas, in his own political context, was admitting war between equals, that is, war between cities and provinces as well as kingdoms. That such should be legitimate when war between private persons is not so may be due to the fact that in the former case there is no effective higher authority having common jurisdiction over both parties, whereas local or national government supplied a means of resolving individual conflicts. It was also held that princes, unlike private individuals, derive their power from God.

Aquinas also ignored the Church's growing effort to prevent wars and to reduce their cruelty, and the Pope's and others' intervention and arbitration in dispute. Indeed, Aquinas's most serious omissions were that he did not deal with the question of arbitration, in spite of the many contemporary examples and theories in civil and canon law, and that he did

not relate the question of warfare to that of the international community, to the world, or even to Christianity as a whole. And indeed the 'common good' of which Aquinas wrote and which must be the aim of a just war, was rather a limited good, that of a city or province, and never the international good of all. Such a wide horizon was not visible from Aquinas's viewpoint, although he did mention once that war should be fought even for the good of those against whom one fights. Another criticism is that Aquinas did not distinguish between defensive and offensive war, presumably assuming that the former can be taken for granted as legitimate in any circumstances, and that only the latter need be restrained by conditions. There is, except incidentally in considering whether fighting on feast days is legitimate⁽¹⁾ no stipulation that it must be the only possible and therefore the ultimate means of restoring justice. Neither did he say that the means must be proportionate to the end.

There are certainly inadequacies and omissions in Aquinas's thinking on war. Some of them, no doubt, were encouraged by the

(1) Q.XL. art 4, in corp.

conventions of the scholastic method, which, by allowing the expression of a certain number of objections, contrives to give the impression that an open debate is in progress. However, the objections stated could be selected with the greatest care, so that what seems to be a contest of opinions is more like a ventriloquist's performance insofar as the proposer and opposer are in fact one person. This "one person", therefore, is in a position to conclude the "debate" at whatever point he chooses with the complacent and dogmatic pronouncement: "This suffices for the replies to the objections". Aquinas did not undertake a really thorough, all-round examination of this most complicated ethical question, but was content to treat it with a somewhat facile formality. His treatment was wholly abstract and shews no awareness of the many incidental problems which are hardly covered by his very general rules. There is no indication in his writing that he ever felt personally moved or even slightly touched by the horror of war, or that he ever thought of it as in any sense a tragedy or calamity rather than as a sin.⁽¹⁾

(1) Partly accounted for no doubt by the intellectual fashions of the day. Gordon Leff: Medieval Thought, p.169.

However, it may well be that Aquinas would have made good these omissions if he had been given the task of reaching decisions in particular cases.

Yet it is hard to believe that Aquinas could have escaped all knowledge of war in his own day even had he wished to do so. His ignoring the arbitratinal activities of the papacy may say something for Aquinas's honesty as well as for his prudence, for it was only just before his death that the empire and the papacy came to terms. In a period in which the popes were most anxious to exert their secular powers, even to the extent of supporting underlings against the emperor, in which the emperors were rather frequently excommunicated, and in which Gregory IX actually preached a crusade against Frederick II, Aquinas may have found the evidence too confused for immediate summary. Moreover, for the period 1243-54, the Church's case was in the hands of a pope, Innocent IV, who had been trained in the school of Bologna. Whether or not such circumstances account for Aquinas's brevity on the subject of war is a matter of considerable interest.

The criticism that Aquinas, as a theologian and metaphysician, considered war from a religious and individual point of view

rather than from an objective and social one raises important questions. For instance, can there be a distinctively Christian attitude to the problem of war, and, if there is, is it likely to give a deeper insight into it and lead to a demonstrably better answer? Again, is the ethical problem involved best regarded from an individual or from a social point of view, and which of these points of view is most properly adopted by Christians? If it should seem prudent to take both these points of view into account, along what lines is a synthesis to be sought? And can there be any affinity between the Christian attitude, whatever it might or ought to be, and the secular, and if there is difference rather than affinity how far is it possible to achieve a compromise? A careful study of such questions should throw some light on the propriety of making a firm boundary between the realm of subjective, individual, religious morality and that of objective, social, and political morality.

However, it can be said straightaway that the criticism that Aquinas dealt with war as a purely individual problem is itself very questionable. And the further criticism that

Aquinas dealt with war as a theologian and metaphysician rather than as a sociologist is, to say the least, rather unimaginative. It is true that the doctrine as it stands seems perfunctory and quite unrelated to the rest of his thought. It is also true that he leans heavily on Gratian's Decretum and Augustine, whom he even quotes without acknowledgment. Nevertheless, as the rest of his thought is open to scrutiny, it can be used in an attempt to assess Aquinas's true position in relation to the war question. In any such attempt it is particularly important to discover whether or not Aquinas's treatment of war has about it anything specifically Christian, and this calls for a careful study of his use of Biblical revelation and teaching and of the worthiness and adequacy of his exegesis in the light of modern Catholic teaching.

CHAPTER THREE

AQUINAS'S UNDERSTANDING OF REVELATION AND HIS USE OF THE SCRIPTURES IN HIS WAR ARTICLES, IN THE LIGHT OF MODERN CATHOLIC THOUGHT.

The supremacy of the Scriptures as a source for the understanding of God and of the purpose of human life had been upheld by the whole of the Christian Church up to the time of Aquinas. There had been differences of opinion as to the correct way of interpreting them, and, in this matter and in other spheres, of the right relation between revelation and reason, but reverence for the Bible as the inspired word of God was constant.

Aquinas, whose greatest task was the harmonising of revealed truth and natural reason, acknowledged the Scriptures as the work of the Holy Spirit, and as teaching some truths inaccessible to human reason alone; but although he distinguished

reason and faith he laboured to emphasise that they themselves and their object often coincide, and mutually support or supplement each other.

The nature, extent and purpose of revealed truth is the first topic discussed in the Summa.⁽¹⁾ Because God surpasses human reason, truth about Him had to be revealed. Man's whole salvation, which is in God, depends upon this truth, and although certain aspects of it can be grasped by the unaided reason, they are inadequate and available only to a few superior intellects; therefore it was important that God should make Himself and His plan of salvation plain to all men. God reveals those truths such as the Trinity which must be believed by all men and which surpass natural knowledge because of some deficiency in it. He also reveals higher truths, mysteries of wisdom which can be understood only by the perfect; some things may be unknown or unknowable only to particular individuals, because of their circumstances, and these too may be revealed; others, such as future events are thoroughly unknowable until revealed.⁽²⁾ God reveals everything necessary for salvation, but the Divine revelation will only be perfected in heaven.

(1) First Part. Q.1-10.

(2) Second Part. II Q.171. Art.3.

The 'Sacred Scripture or Doctrine' is based on this Divine revelation. Divine science or theology is based on principles revealed by God; it is both speculative and practical, though predominantly the former, as it deals more with divine things than with human acts. It does, however, concern itself with the latter since they lead man to that perfect knowledge of God which is eternal bliss. This is the supreme end of man and thus theology is the highest of all sciences. Its starting point, principles coming straight from God, surpasses that of other sciences in irrefutable certainty, and its subject matter, God Himself, could not be higher.

Philosophy shews God as He is revealed in creation, but theology treats Him as He is known to Himself alone and revealed to others. The principles of other sciences are either self-evident or provable by reason, but theology derives its principles from the divine knowledge which is given in revelation. Therefore, if the other branches of knowledge contradict the latter, they are false. But in order to make a true and full judgement about any divine matter it is necessary both to study theology whose principles are obtained by revelation, and to have that wisdom which is the gift of the Holy Spirit.

The subject of theology is God Himself. Everything else, such as things, symbols, the works of salvation, 'or the whole Christ' is dealt with, but only so far as it refers to God. It is true that we cannot know the Essence of God, but we make use of His effects of nature and of grace, just as in certain philosophical sciences the effect is used to demonstrate something about a cause and also to take its place.

Reason cannot defend or argue about the principles of theology, for these principles are Articles of Faith given by revelation; but it can argue from these to prove other things.

St Paul thus reasoned that the general resurrection follows from the resurrection of Christ.⁽¹⁾ Since the principles of bases of theology transcend the highest human reason, it is impossible to convince an opponent of their truth unless he is willing to give up some of his own metaphysical principles, and to believe at least some of the truths given in divine revelation. The articles of Faith cannot be proved by reason, but since they are infallible and are superior to reason they can never be disproved by it. The authority of those to whom the revelation

(1) 1. Cor. XV.

was made is sufficient guarantee for our faith. Nevertheless, human reason is used by theology to make itself clear, for grace does not destroy faith but perfects it. Natural philosophers indeed are quoted in the Scriptures but are allowed only a probable and extrinsic value.

Sacred doctrine holds the canonical Scriptures to be incontrovertible, whereas the authority of the Doctors of the Church is **only** probable. For faith rests upon the revelation made to the apostles and prophets who wrote the canonical books and not upon the revelations - if indeed there have been such - made to others.⁽¹⁾

In spite of the doctrine of the infallibility of the Scriptures however, metaphor is quite rightly found in them, for material images help the simple and unintellectual and are in accord with the sensible basis of truth. Their presence stimulates thought and is a defence against the ridicule of the impious.⁽²⁾ And since what God is not is clearer to us than what He is, it is more appropriate for Divine truth to be illustrated by examples

(1) Augustine is quoted: Only those books of Scripture which are called canonical have I learnt to hold in such honour as to believe their authors have not erred in any way in writing them. But others I so read as not to deem anything in them to be true, merely on account of their having thought and written; whatever may have been their holiness and learning.

(2) Matt. VII.6.

taken from things which are furthest away from Him, so that His transcendence may be more obvious and preserved, and so that we may appreciate that 'God is above whatever we may say or think of Him'. The author of Holy Scripture is God Himself, who reveals his meaning through both words and things, and in the study of Holy Scripture it must be remembered that not only words themselves, but what lies behind them, what they describe or signify, has meaning. Here Aquinas might seem to come near the modern Protestant stress on the evaluation of revelation as at least part event.⁽¹⁾

The most obvious meaning of Scripture is the literal or historical interpretation. The spiritual interpretation Aquinas divided into three types, the allegorical, the tropological and the anagogical. The allegorical is applied to the understanding of Old Testament passages which signify the spirituality of the New Testament; the tropological or moral, to the understanding of how we ought to follow the deeds and teaching of Christ in our

- (1) "This Word of God, he teaches, always reaches us in a threefold form as preached, as written, and as revealed. In order of knowledge the preaching comes first, but all Christian preaching is dependent upon the witness of prophet and apostle as handed down to us in Scripture. This prophetic and apostolic witness is, however, in its turn to be distinguished from that which alone is the revelation itself, and which is essentially event. What Scripture does is to recall and attest an event which is prior to and to be distinguished from its own existence. 'Revelation is therefore originally and directly what the Bible and the Church's proclamation are derivatively and mediately - the Word of God.' " (John Baillie: The Idea of Revelation in Recent Thought, pp.63-4. He quotes Karl Barth; Die Kirchlich Dogmatik, 1, pp.118 - 120.)

own lives; and the analogical to the understanding of how to apply the words of the Scriptures to the belief in an eternal Kingdom of God. Truth is always conveyed to us through Scripture in order to ~~in order to~~ stimulate right belief or right conduct. In matters of right belief it has to be remembered that the Church is midway between the Jewish Synagogue and the Church Triumphant. Thus there are types in the Old Testament which prefigure the Church on earth, and types in both Old and New Testaments which prefigure the Church Triumphant in heaven.⁽¹⁾ Therefore one word or text in Holy Scripture can have several interpretations. The number of interpretations does not result from mere ambiguity but because the thing which the word signifies, what lies behind the word, has meaning. All interpretations are based on the literal sense and argument can be based on that alone.⁽²⁾

Aquinas discussed the difference between the Divine Word and the human word.⁽³⁾ He distinguished the interior word, which is inwardly conceived, from the exterior word which is its sign. The inward word which proceeds from and is in the intellect, is the idea and likeness of what is understood. Since there are

(1) Quaest. Quodlib. VII. XV. in corp.

(2) Quaest. Quodlib. VII. XIV ad.4.

(3) Opusc. XLII.

three intelligences, Divine, angelic and human, there is a Divine Word an angelic word and a human word. The Divine Word is heard in Genesis 1.3. and referred to by St. John - In the Beginning was the Word.⁽¹⁾ The Word of God of which John speaks differs from the human word in three ways. Firstly the human word is the achievement of reasoning except for the first principles which are known without rational activity. Our human word is in potentiality before it becomes actual, and it is in fact thought. But the Divine Word is always actual and is preceded by no thought. Secondly our human word is imperfect, whereas the Word of God is perfect. For we are not able to express all that is in our soul by one word. But one Divine Word expresses all that there is in God. So the Divine Word is but one - God speaks once. Thirdly our human word is not of the same nature with ourselves, whereas the Divine Word is of the same nature with God and subsists in the Divine Nature. The word formed by our intellect does not belong to the essence of the soul, but is an accident to it. The Word formed by God is identical with the Nature of God.

The Word of God, therefore, is always to be considered personally, since it is an expression of the person of God Himself.

(1) John 1.1. ff

It is indeed God Himself and is the Son of God. Aquinas does not here discuss the precise relationship of the Divine Word to the inspired human words in the Scriptures, but it seems that he would see the supreme revelation of God in Jesus, and that therefore he might have agreed with Brunner that the personal God can reveal Himself supremely only in a person, that whereas our words are signs, 'God's Word is the actual meaning itself',⁽¹⁾ that not even the human words, the preaching and teaching of Jesus, although part of His person and work and an essential element in revelation, are the Word of God as a whole. That in fact Jesus is a 'silent supposition for a right understanding of His teaching'.⁽²⁾

In his discussion on the inspiration of the prophets,⁽³⁾ Aquinas made a distinction between two ways in which revelation can be given. In one way by an express revelation, in another and more imperfect way, by a mysterious instinct to which the human mind is subjected without knowing it. In the latter case the prophet is not able to know with certainty whether his thoughts come straight from God or are merely inspired by his own spirit. This ignorance which endangers the truth is, however, quickly corrected by the Holy Spirit - presumably before the message is permanently enshrined in writing.

(1) Emil Brunner: Revelation and Reason, p.119.

(2) Ibid., p.121.

(3) S.T. 11.11. Q.171. Art. 5.

Aquinas is respected by modern Roman Catholic scholars as the 'Prince of medieval exegetes' ⁽¹⁾ and his work as having power, thought and thoroughness, but even so it is estimated that patience might be needed if its excellence is to be appreciated by modern readers. Tribute is paid ⁽²⁾ to his terminology and analysis of the various interpretations of Scripture. It is doubted whether they have been bettered and they are still in current use, though no such clearcut distinctions can contain all the shades of meaning in Scripture.

Aquinas's rule that argument can be based only on the

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- (1) William Leonard and Dom Bernard Orchard: A Catholic Commentary on Holy Scripture, p.4.
(2) R.C.Fuller: A Catholic Commentary on Holy Scripture, p.56.

literal sense, is, however, questioned today. He made this rule with the reassurance that there is no spiritual truth which is not also contained in a literal sense somewhere in the Scriptures, but today it is regarded as perfectly legitimate to use any spiritual interpretation for the demonstration of truths, as the New Testament writers themselves did so, and since the spiritual interpretation, coming straight from the Holy Spirit, has the highest authority.⁽¹⁾

The modern Catholic understanding of the Holy Scriptures is in theory fairly clearcut, but in fact it is somewhat less certain.

The Bible is revered as recording a supernatural progressive revelation of God's purpose, but the written word, though fixed, is not the final evidence of God. The oral message and teaching which lies behind it are thought to be just as important, and it is stressed that 'a living teaching authority is prior to every single book of Divine Scripture.'⁽²⁾ The experience of Pentecost proves that the spirit and the living voice transcend the merely

(1) R.C.Fuller: A Catholic Commentary on Holy Scripture, p.57.

(2) William Leonard and Dom Bernard Orchard: A Catholic Commentary on Holy Scripture, p.1.

written word: 'It is absurd even psychologically that the grace of Pentecost should be dominated by the letter of a book'.⁽¹⁾

However the latter is a valuable treasure of the Church, her valid possession since she inherited the Jewish Scriptures and herself created the Christian literature,⁽²⁾ and it is a wellspring for the preaching of the living word. Tradition is a second source of revelation, and this too has been inherited and created by the Catholic Church in her doctrine, teaching and practice. The particular character of the written Scripture is that it is the inspired word of God, 'a letter written by our Heavenly Father and transmitted by the sacred writers to the human race in its pilgrimage so far from its heavenly country.'⁽³⁾ Tradition harmonises easily with Scripture because the Church which holds this tradition gives life to the dead letter of Scripture; only in the life of the Church does Scripture become 'living and effectual and more piercing than any two-edged sword.'⁽⁴⁾

(1) William Leonard and Dom Bernard Orchard: A Catholic Commentary on Holy Scripture. p.1.

(2) Ibid. p.8. "The N.T. Scriptures being written within the Church by some of its members for the benefit of all (or more precisely, within the society of the Catholic Church by Catholics and for Catholics) are likewise her exclusive property, of which she is the absolute Owner, Guardian, Trustee and Interpreter."

(3) Ibid. p.2. (from Chrys. In Gen. hom.2.2.)

(4) Ibid. p.2. (Hebrews IV 12)

It is reckoned that because Tradition has equal authority with the Scriptures the Council of Trent rightly refused to recognise the Bible as sole arbiter in matters of faith and morals, and the individual as its proper interpreter. The Church is superior to the Bible because she is the living voice of Christ and thus the only infallible and authoritative interpreter of Scripture. The Church alone can decide what is Scripture, and can discriminate between uninspired and inspired books. The infallibility of the Church only extends to those matters of faith and morality necessary for salvation, although all Scripture statements are in themselves infallibly true. There is some uncertainty about whether or not there is a direct Biblical basis for all the traditional doctrines of the Church. However, it is not possible to say that certain truths are nowhere found in it, because some doctrines are based on the implications or syntheses of various texts.

Bible study should be aided by the grace of God, and helped also by such sciences as philology, archaeology and Church Tradition, in order to discover the spiritual content or message.⁽¹⁾ We should read the Bible on our knees, in a spirit of humility and

(1) Such studies are in themselves quite secular and the investigation of such questions as the Synoptic problem has no more spiritual value for the student than the Baconian theory of Shakespearian authorship.

submission to Christ, and to the teaching authority of the Church of Christ, serene in the certainty that since both Bible and Church are infallibly directed by the Holy Spirit, they will never contradict each other.

Up to modern times Catholic scholarship concentrated on the doctrinal content of Scripture and rather overlooked literary origins and oriental idiom, the progress of Old Testament revelation, and ethnic and political environment of the Hebrews, and other such philological and historical questions, but this is no longer so. Tribute is paid to the critical and historical methods developed by non-Catholic writers of the nineteenth and twentieth centuries in the fields of textual criticism, linguistics and ancient history, but much of this was tinged with rationalism and had a corrupting influence even on some Catholic scholars. The 'Broad School' even allowed that the Bible contained errors in matters of history and natural science, and this line of thinking led to a crisis which was finally resolved by Pope Leo XIII's⁽¹⁾ Encyclical Providentissimus Deus of Nov. 1893. This has become the 'Magna Carta' of Catholic biblical studies. It was confirmed and elaborated by the Encyclical Spiritus Paraclitus of

(1) A strong Thomist - largely responsible for reviving Thomistic study in the church.

Benedict XV in 1920 and by the Encyclical Divino afflante Spiritu of Pius XII in 1943.

The Prov. Deus declared in the plainest terms the absolute inerrancy of Holy Scripture. The virgin Mss were entirely true it said, as God was their Author, although certain scribal errors and faults of translation may have crept in since ^{and} the meaning may at times be doubtful. The Bible is a human book written by men in contemporary literary forms and language, and consequently the particular circumstances and temperaments of the different writers are frequently reflected in it. The Church allows open-minded enquiry on many points, for it is appreciated that the Scriptures are wrapped in a certain religious obscurity to stimulate scrutiny. Above all things God wills men to understand that He has delivered the Scriptures to the Church so that in reading and using His sacred word they must follow the Church as their most certain guide and teacher. The Church jealously guards and defends the Bible but in fact is often hesitant and uncertain about its interpretation. Much scope, therefore, is allowed to the private scholar, who can help towards the formation of the mature judgement of the Church.

It was emphasised in the Divino afflante Spiritu that among the many matters in the legal, historical, literary and prophetic books of the Bible there are only a few whose meaning has been irrevocably confirmed by the authority of the Church and only a few about which the Holy Fathers are unanimous. Less than twenty texts have been infallibly interpreted, and even an infallible interpretation is not an exhaustive interpretation. Some interpretations, wrought by decrees of councils or commissions, have high authority and the traditional view should be adhered to until a better one develops. There are many important matters about which much wisdom and ingenuity of exegesis is needed. The Church pronounces on the meaning of a text only when it concerns matters of faith and morals, and even here often gives only negative guidance, by warning against wrong views, or by helping us to ensure that the interpretation is in harmony with the general rules of faith. There are many secular matters, such as details of archaeology, geography, and so on in the Bible; the Church upholds their inerrancy but has no authority to define their meaning, unless they are connected with doctrine. The Church for instance has no views on the controversial question of the chronology of Kings.

Among such important questions is that of the extent to which literary forms ⁽¹⁾ in the Old Testament are to be taken into account. It is admitted that objective fact and truth are often presented in the shape of fantasy and that an understanding of literary forms helps in distinguishing objective truth from the manner of presenting it. If well understood this principle can enlighten the interpreter but ----

'---- badly understood, it can be the occasion for all sorts of fantasies and guesses. Doubtless, this disturbing alternative is the reason why there was so much delay on the part of ecclesiastical authority in the clear assertion of the principle, and even today in this, the outstanding page of the encyclical (Div. affl.Spir.) there is, probably by design, a certain obscurity -- We have to conclude, it seems, that while clearly approving the principle of distinguishing literary forms, the encyclical does not intend to give interpreters a free hand to decide how widely the principle may be applied. The task remains for Catholic interpreters to work out for themselves a way so true and exact that it will not have to be laid down all over again later.' (2)

Consequently, the first eleven chapters of Genesis are accepted as Primitive History, whereas the great lifespans of the patriarchs are contradicted by the conclusions of the study of palaeontology. The prophets spoke under the divine influence of inspiration, but

(1) Fable, Parable Epic History, Religious History, Ancient History, Free Narrative, Popular Tradition.

(2) D.J. Leahy: A Catholic Commentary on Holy Scripture. p.42.

as it issued more genuinely as a spoken rather than as a written word, we must take pains to distinguish the prophet's message from the 'envelope' in which it is contained. This envelope is itself truly inspired, but its only purpose is to contain and deliver the message, and when this has been done it can be discarded. This distinction enables us to understand why secondary features, such as the national and material restoration associated with certain Messianic prophecies, were not fulfilled to the letter.

Form criticism is understood as a development of Source criticism, and as containing both truth and error. The importance of the oral tradition behind the gospels is rightly stressed, as is their unique literary and apologetic character. But the motive of the writers, and the form which they use to express it, does not falsify what they report, and we can find in the gospels objective historical facts about the life and sayings of Jesus. There is also a considerable amount of comparatively 'formless' matter in the gospels, which escapes the criteria of the form critics, who also have a strange and unjustified understanding of the early Christian community.

The concept of inspiration has been deepened in modern times.

The encyclical of Leo XIII taught that the human author was as an instrument in the hand of the Holy Spirit. Those things only and wholly which He wished were written down. According to the modern Thomist theory of inspiration God and man do not write separately but together. 'There is not in the effect produced anything that belongs to the one cause and not to the other: the whole is due to each, but in different senses.'⁽¹⁾

This modern Thomist view is, however, not accepted by all scholars, especially as the Divino afflante teaches that the spiritual significance of Scripture is entirely and directly from God, and may not be apprehended by the human writer. But it is generally accepted that God acted both in and through the human author, and did not use him as a mechanical and unconscious, but a creative and conscious instrument, and so by Divine condescension certain human devices are permitted. The human author is allowed to use pseudepigraphy. The differences in the gospels, it says, complement each other to give a complete picture of Christ. The humanity implied in the Scriptures must be without error. Pius XII underlined a comparison found in Rabanus Maurus⁽²⁾ between the Incarnate Word and the written word:

(1) J.H.Crehan, S.J: A Catholic Commentary on Holy Scripture, p.48.
 (2) PL.108, 248.

Just as the substantial Word of God became like to men in all things, sin excepted, Heb.4. 15, so the words of God, expressed in human language, became in all things like to human speech, error excepted." (1)

God, however, transcends the human author; everything in the Scriptures is from God, but not everything from the human author. Inspiration is a mystery. All Catholic theologians agree that the aid given to an inspired writer is greater than that enjoyed by a General Council, which, however, does publish infallible decrees. It is not allowed that divine inspiration reaches to matters of faith and morals and no further.

It is admitted that however strictly the doctrine of the inerrancy of the Scriptures has been upheld by tradition, the application of the principle to individual texts gives rise to difficulty and debate. Wherever possible, apparent discrepancy between the divinity and humanity of Scripture is reconciled.

The language of 2. Macc.2^{24 - 32} and 15^{38 - 40}, which depict the author as contemplating On his labours of writing and lamenting over their difficulty, is no proof against inspiration. God could inspire a man to write, and by condescension could allow him,

(1) Divino afflante, par. 41. A Catholic Commentary on Holy Scripture, p.49.

unconscious of his own inspiration, to express his weariness. And when Biblical authors appear to be wrong they may be quoting profane authors without acknowledgment. Whereas Anglicans, for instance, believe the Bible to be a book of unique and permanent value written by human beings, Catholics firmly believe in God's authorship.

The Church has never ruled out the possibility of inspiration of books later than those of the canon, but it has declared that Church approval does not make a book inspired.

In supporting the doctrine of inerrancy, the purpose of the human author is of the first importance. Leo XIII answered the common objection that many facts found in the Bible contradict modern scientific knowledge by pointing out that the Holy Ghost had no intention of teaching men matters which are not profitable for salvation. Pius XII, however, thought that very often an historical inaccuracy or inexact recording of events arose from the use of contemporary human literary expression.⁽¹⁾ The doctrine of inerrancy implies an absence of immoral teaching, and the apparent presence of such, particularly in the Old Testament, certainly needs some explanation. That God should have

(1) Div. affl. para. 39.

even inspired the writing down of the Jewish code of law may seem strange. Catholics hold that it has to be remembered that some of the laws are conditional and not absolute - if there are slaves, then it is best that there should be a regular way of dealing with them; if divorce takes place, then it is best that it should be dealt with in a regular way.⁽¹⁾ This may not be perfect law, but it does, they claim, prevent hasty action which might masquerade as law. The Mosaic laws are clearly more mild and religious than those of Hammurabi and the Assyrians, and if it has to be allowed that the Jews were still in a state of minority, then,

.... that God should choose to leave them so, while providing the means of escape to higher ideals, is really his business and not ours. (2)

Acts of slaughter especially need explanation. The command to despoil the Egyptians⁽³⁾ seems at first sight quite immoral, but, apparently, it is possible to see that command in such a light that it may appear to be wholly compatible with the morality of both God and man. The Israelites had earned compensation by their labours in Egypt and God, the Lord of all creation, could tell them to take it wherever he

(1) Deut. XXIV, 1 - 4

(2) J.H. Crehan: A Catholic Commentary, p.52

(3) Ex. III, 22; XI, 2; XII, 35 - 6.

willed. Immorality, too, can be suggested by a mistranslation, as when Agag is described as having been hewed into pieces,⁽¹⁾ "which looks like sadism".⁽²⁾ The better translation would be "put to the sword," which is, presumably, morally more wholesome. Although the sanctity of human life was safeguarded in the decalogue, the Hebrews, like the Assyrians, were quite merciless in war. However, such acts as Moses' order for the wholesale slaughter of the Midianites⁽³⁾ have to be seen in their historical context. Such events are explained - and, for Catholics, presumably, excused - as revenge. The Jews, in fact, were right to take such terrible revenge because the Midianites had influenced them in the direction of idolatry. Nor are the Israelites blamed for acting in this unchristian way in pre-Christian times.

The Israelites, moreover, had a strong sense of collective responsibility. Christianity centres responsibility on the individual rather than on the group, and stresses the eternal value of each God-created soul and its individual responsibility to God, but Christianity has never repudiated the justice of collective responsibility and collective retribution unanimously

(1) 1. Samuel XV.33.

(2) J.H.Crehan: A Catholic Commentary on Holy Scripture, p.52.

(3) E.F.Sutcliffe S.J: Ibid., p.138.

admitted and acted on in Old Testament times. The Church has sought, rather, to add gentleness to justice. Hebrew legislation, according to Alt and Jirku, has two principle divisions. The first is casuistic, conditional, and secular, and derives from the codes of neighbouring lands, which go back to the Sumerian laws of the third millenium. The Hebrews took it from the Canaanites during the period of Judges and the early monarchy. The second division, the apodictic, has no parallel outside Israel and derives from Moses. The phrase 'Thou shalt not' is thought to be the result of Moses' own religious experience, and its urgency and transcendence as an expression of God's will permeate this wholly new kind of legal obligation. The growth of the Mosaic code in later times is accepted as a natural development, and belief in Moses' authorship of the Pentateuch is giving way to an understanding of Mosaic influence.⁽¹⁾

The 'ill-fitting nature of the parts of the Pentateuch' is seen as a result of Oriental peculiarities of procedure, thought and expression rather than of the different sources from which the parts derive, however.

For although the Church recognizes the growing and

(1) R.A.Dyson and R.A.F. Mackenzie, S.J: A Catholic Commentary, p.66: Catholic scholars are formally invited to undertake... 'further study', which will no doubt demonstrate in the Pentateuch 'the large contribution and profound influence of Moses as author and as legislator'.

developing nature of Old Testament revelation, it is always on guard against easy acceptance of an evolutionary theory of religion. She does not believe that montheism evolved from polytheism because she maintains that it has been proved that polytheism is itself a degeneration from monotheism. Above all, an evolutionary theory would imply that the human mind is left to its own resources in its understanding of the divine, and if this were once accepted it would be impossible to deny, as the Church does, the efficacy of individual interpretations. The Church itself does little more than take into account local and temporal conditions in its interpretations of revelation in the light of the notion of development. It sees no limit to the ways in which the Old Testament can prefigure the New and look forward to the future. In so doing, the Old Testament may often seem to reveal religious, legal and moral teaching of a comparatively low order. Nevertheless, it is held, such teaching was perfectly adapted to the mental and spiritual condition of the Israelites at the time. Its value was temporary, and in matters of doctrine and morality it has to be supplemented and perfected from the New Testament. Many of the old prohibitions, such as that against consuming blood,

reflect an attempt to deal with temporal circumstances. In some respects too, God condescended to the low spirituality of the times by making laws which seem to have little to do with the immutable principles of right and wrong. But although the Old Testament often failed to forbid what New Testament revelation shewed to be sinful, other parts of its teaching are of the highest abiding truth. Its positive commands, for example, even when they have little to do with right and wrong, are never evil in themselves.

To outsiders, much of this kind of thinking within the Church might well seem, in the common sense of the term, equivocal. Although the Church has succeeded in making sure of the meanings of less than twenty texts in 2000 years, it still claims to be the one divinely appointed interpreter of the Bible, and in fact claims to be superior to a book which it does not fully understand. It pronounces all Bible statements inerrant, but professes infallibility only in dealing with those which are matters of faith and morality necessary to salvation. By holding tenaciously to its own tenets, therefore, the Church may seem to be in the position of knowing something which it does not know in such a way as

to pronounce infallibly upon it. This same tenacity may also lead to what may seem some overlooking of the human responsibility for such errors and inaccuracies other than scribal and translators' failings as are to be found in the Bible. It is one thing to think that God wished men to write honestly of their thoughts, feelings and religious experiences, and that in doing so He became responsible, in some way or other, for their expressions of weakness and sin, but it is quite another to think that God is the 'Author' of such 'a letter'. (1) The second view, indeed, implies that God allows man to dramatize his faults in the full light of Heaven and under the wing of His Divine Inspiration. God in His condescension allows man to use pseudo-epigraphy, but surely His condescension does not stoop so low as to permit the use of His own name. This is in fact implied if the human errors in the Bible are not taken seriously. For not all the historical inaccuracies and tokens of personal prejudice to be found in the Bible can be written off as mere aspects of literary form. It is hard to believe that all Old Testament incidents of immorality which seem to happen with God's will can become by interpretation Divinely inspired and moral (2) or that God would so far condescend as to

(1) See above pp. 70-72.

(2) e.g. "The righteous shall rejoice when he seeth the vengeance. He shall wash his feet in the blood of the wicked." Ps. LVIII.10. See also Ps. LXXIX and Ps. LXX.13. "Consume them in wrath, consume them that they may not be."

condone and encourage the low spirituality of His people by adapting His morality to theirs. Such difficulties must face any attempt to reconcile human error with a rigid doctrine of Divine inerrancy. Similar difficulties beset Church teaching on the authority assigned to tradition, for it has the same origin as, and much of it is grounded in the Scriptures themselves.

Thinkers who are not bound by the doctrine of the inerrancy of the Scriptures have mostly come to see revelation as an event in which God and man play complementary parts. Its medium of expression is that of personal relationships, for true knowledge about God must be personal knowledge of Him. Such knowledge, however, is limited or corrupted by the inadequacy of a man's response, so that only in Christ, whose human response to God was perfect, can be found perfect knowledge of God. Christ is the criterion of all other revelation. Accordingly, when such thinkers come upon a picture of God which, morally and spiritually, falls short of the perfection revealed in Christ ---- God in the Old Testament, apart from the war texts themselves, often seems crude and cruel ---- they do not hold it to be inerrant revelation, but partly some perversion of human imperfection.

Since the Roman Church pronounces authoritatively on matters of morality as well as of faith, it would be natural to expect that it would have made a careful study of all the Bible texts which deal with war and that, even if it had failed to harmonise them, some kind of guidance which would produce less conflict of opinion on the subject than is found in the protestant churches, would have been given. In any case, a more complete unanimity on the interpretation of independent texts, would be expected. The Roman Church appears far more confident that the words and life of Jesus as given in the gospels are absolutely authentic, and this might lead it to allow the greatest weight to His few statements which are relevant to war. However, the doctrine of inerrancy would make it all the harder to explain the "God of Battles" and the divine sanction of war and vengeance in the Old Testament as the result of a human misunderstanding of God's real nature and will. For although the Church now believes in a progressive moral development, such progress and development is held to be controlled and ordained by God. So far from leading to the prohibition of war, it is not impossible that careful adherence to the doctrine of inerrancy should allow that, as Divine condescension and

human imperfection are eternal, God could command vengeance and slaughter for an imperfect people today just as He did in the past.

In fact the Church makes no extravagant claims for its own exegesis, and admits that it is far from complete, so that, as the Scriptures and tradition are held as equals in matters of revelation, there might well be a tendency to stand by tradition. And a doctrine so firmly enshrined in the Roman Catholic tradition as that of the just war would presumably be ever-present in the minds of Church thinkers seeking by further examination of Scripture to deepen understanding of the subject. Since the Church teaches that there are truths of faith which cannot be reached by reason, and which, therefore, have to be revealed, it might be expected that the same would be true of certain moral truths, for experience certainly proves that some moral dilemmas wholly overwhelm human reasoning powers. As the articles of the Roman faith are found in the Bible, it might perhaps be expected that the Church would find supernatural truths of morality there also, and that it would regard obedience to them as just as essential to salvation as belief in the doctrines of faith. War is a moral problem of such gravity that the mind that labours with it might well hope for enlightenment

from revelation. It is therefore natural to seek how far such minds within the Church have taken into the traditional doctrine the help that revelation can give, and whether or not the authority of tradition can be regarded rightly as separable from the authority of the Scriptures.

Some answer to such questions might be found by looking carefully into Aquinas's exegesis in his commentaries on Bible texts used in the war articles of the Summa Theologica and into modern Roman Catholic interpretations. The commentaries do not deal with all the texts used in the war articles, but they do set down Aquinas's thoughts on the most important of them and on some of the less important too, and it is therefore possible to see the relationship of his thinking to that of other writers.

Aquinas's exegesis and use of Gospel texts is particularly interesting because he recorded not only what he thought about many of the verses of the Bible but also his understanding of the writings of the many earlier writers on the New Testament to whom he went for help. The prince of medieval exegetes was not without fame in his own day and he was asked by Urban IV to produce a catena of the patristic interpretations of the Gospels.

This vast compilation was finished while he was travelling with the curia in Italy after his first return from Paris, and was named the Catena Aurea. Mark Pattison⁽¹⁾ held that Gregory the Great was the last of the original patristic commentators and that after his time exegesis had been carried on by means of catenas or selections from earlier writers. The Catena Aurea is essentially made up of selections,⁽²⁾ and Aquinas's contribution to it must be sought, on the whole, in the manner of dealing with diverse materials. The occasional glosses, which often introduce new topics or sections, have not been traced to earlier writers and were written, presumably, by Aquinas. A few of the glosses are not simply introductory but are made up of short explanations such as a twentieth century writer would drop into footnotes, and these too, presumably, were written by Aquinas. The rest of the Catena Aurea, however, he drew from earlier writers.

Despite the diversity of the materials which he had to work into the selections, Aquinas set them down in the most straight-

(1) Introduction to the Catena Aurea.

(2) Origen, Pseudo-Origen, Cyprian, Eusebius, Athanasius, Pseudo-Dionysius, Hilary, Gregory of Nazianzus, Gregory of Nyssa, Ambrose, Jerome, Nemesis, Augustine, John Chrysostom, Cyril, Maximus, Cassian, Peter Chrysologus, Canons of the Council of Ephesus, Theodotus, Leo I, Gennadius, Gregory I, Isidore, Bede, John of Damascus, Rabanus Maurus, Haymo, Remigius, Glossa Ordinaria, Paschasius Radbertus, Anselm, and the twelfth century Glossa Interlinearis.

forward way with concise discrimination. The Gospels⁽¹⁾ were first marked off into sets of one or more verses, and then each set was followed by the expositions. These Aquinas placed in the order of literalness, historicalness and obviousness, so that the more recondite expositions, those which gave the mystical, moral, allegorical, tropological or spiritual sense, came last.

In compiling the Catena Aurea, Aquinas seems to have leaned most often on Rabanus Maurus,⁽²⁾ for many quotations are to be found in the works of both of them. It is Pattison's opinion however that it was not directly grounded on any earlier compilation. It shows a very wide knowledge of ecclesiastical thought, and the skill and integrity with which Aquinas summarised, paraphrased and ran together his countless bits and pieces is remarkable.

The sections of the Catena Aurea which deal with the Gospel texts quoted in the war articles shew that at some time or other Aquinas sifted and summarised impartially rather diverse views. The same would appear from his commentaries, on Matthew, John and the Pauline Epistles. But in the Summa Theologica itself, which

(1) The chronology he took from Augustine's De Consensu Evangelistarum.

(2) See p. 77 above.

was the work of Aquinas's later years and which should have benefited from the wide reading behind the Catena Aurea and the commentaries, he seems to have decided upon a single meaning for a text and then to have applied it rather narrowly in a dogmatic and final way without considering the relevance of alternative interpretations. This was in part, at least, the outcome of his working in traditional literary forms. A catena was a catena, a commentary was a commentary, and a summa was a summa, and each had its own shape. But perhaps it might arise also from Aquinas considering that, as he had dealt with the textual minutiae and variant meanings in the Catena Aurea and the commentaries, he was free to use the wisdom won from his years of study in selecting the one right meaning for the Summa Theologica.

Whether or not this was so, it can be taken that the interpretations of the texts used in the war articles were chosen with the greatest care and applied with a deliberation which, in a sense, was thought to be the same thing as certainty, and so it can be said that in the Summa Theologica Aquinas set down his final thoughts. But perhaps other things should be taken into the reckoning also. There seems to be a gap at times between

the understanding brought to the exegeses of passages in the Catena Aurea and the commentaries and the use made of them in the war articles. The gap may have come about because Aquinas had lived so long on familiar terms with his texts that in his own works he used them rather conversationally, but when all such allowances have been made it is hard not to find part of the cause of the gap in the nature of the works themselves. As commentator, Aquinas had the texts before him and his treatment of other matters had to be related to the particular texts in hand. In writing the Summa Theologica, however, the line of the relationship ran the other way. In the war articles, for example, his task was to bring his reason to bear on the material and contemporary fact of war and to show that the Bible can throw light on it. In doing this he must have been hampered by the rarity of New Testament references to the morality of warfare and very much aware of the kind of warring clashes always likely to break out in his own day.

But although the nature of the writings themselves and the circumstances of Aquinas's time should not be overlooked, it is still true that his works set before the reader a record of Church doctrine on war which has been the groundwork of all later Roman

Catholic thinking on the subject. The strength of his shaping hand is to be found everywhere in the central tradition of twentieth century Roman Catholic thought epitomised in A Catholic Commentary on Holy Scripture. There are of course Roman Catholic 'pacifists' but they, like Roman Catholic non-pacifists, seem to concentrate on justifying their position out of Aquinas's teaching. There are few of them however, and the general modern Roman Catholic attitude to the Bible texts quoted in the war articles of the Summa Theologica can be fairly gathered from A Catholic Commentary on Holy Scripture.

Of the New Testament texts quoted, the one from Luke III.14.⁽¹⁾ can be regarded, in a sense, as pre-Christian. The command to a soldier to do no violence is in itself rather paradoxical. In the Catena Aurea ⁽²⁾ Augustine was the only commentator who saw in this command of John the Baptist a direct justification of Christian warfare. Most of the other commentators rightly or wrongly regarded the publicans and soldiers as rather low classes of persons. Theophilus noticed that the multitude alone are given a positive command, and thought that this is because they were not living in an evil condition, whereas the publicans

(1) Quoted in the Westminster Confession par. XXIII.

(2) pp. 117-120.

and sinners, presumably because they were so living were given a merely negative warning that they should abstain from evil. Bede thought that the fact that such men as publicans and 'even the soldiers' asked John about salvation, proved the power of his preaching. Chrysostom stated that John taught to the publicans and soldiers only common truths which they could understand, and which could act as a preparation for a higher wisdom for which they were yet unready.

Augustine thought that this command proved that John appreciated the soldiers as ministers of the law and defenders of public safety, and did not merely regard them as anarchic homicides. Otherwise he would have recommended them to put away their arms, abandon warfare and never fight. The evil of warfare lies not in the fact that men die in order that the conquerors may rule in peace - this he said is a coward's view - but in 'the desire to hurt, cruelty, revenge, a savage and pitiless disposition, fierceness, rebellion and lust for power.' Wars which punish the violence of the enemy and which are carried out by good men by the 'command of God, or some other lawful authority', are justified.

Aquinas has left no commentary on Luke. A Catholic Commentary

on Holy Scripture⁽¹⁾ regards the counsels of John as thoroughly in accord with the spirit of Jesus, and John's kindness to publicans and soldiers as anticipating the attitude of Jesus. It is thought likely that the soldiers who listened to John were used to enforce the demands of tax-gatherers and that they were therefore Jews.

Professor Macgregor⁽²⁾ connects this incident with Jesus' praise of the faith of the centurion,⁽³⁾ as both have been used to prove that Jesus condoned or justified warfare. Professor Macgregor argues that, in praising the centurion, who was presumably a heathen, Jesus was congratulating the man for his faith, and not giving assent to his profession. He says we should not ground an argument on the silence of Jesus about the latter, particularly as modern scholarship tends to shew that Gospel material was strictly determined by the particular motives of the Gospellers. Their great theme was salvation and they focussed attention in the first place on those sayings of Jesus which were in any way germane to it. The form of the story is relevant, too. The story of the centurion's faith is a 'pronouncement story',

(1) pp. 944-5.

(2) G.H.C. Macgregor: The New Testament Basis of Pacifism, pp. 18-20.

(3) Luke vii. 1-10.

ending in a saying of Jesus which has a special religious or moral content. Other sayings which seemed irrelevant or incidental to this main purpose might have been left out of it. There is no more reason for thinking that Jesus approved the man's vocation than for thinking that He condoned the vocation of the 'woman in the city which was a sinner',⁽¹⁾ or the deceitful vocation of Zacchaeus the tax-gatherer about which Jesus is also silent. The New Testament is silent about slavery, but no-one would argue from this that slavery is Christian.

Professor Macgregor goes on to argue that the Roman soldiery in Palestine was in effect a police-force, and that if Jesus had openly condemned it he would have come into premature conflict with Rome, and by thus associating Himself with violent revolt would have stultified His own pacifist ethic.⁽²⁾ Besides, the fact that Jesus and the early Church expected the imminent coming of the 'Kingdom' would have made a condemnation of Rome unnecessary at such a time. Macgregor's first point appears to have the nature of special pleading, inasmuch as he assumes Christ's pacifism in making this interpretation. Jesus never denounced the Roman soldiery as such even at a later and more

(1) Luke VII. 37.

(2) The New Testament Basis of Pacifism, p.19.

appropriate time. Nor is it likely that His denunciation of the Roman solidery or police force would result in His identifying Himself with violence. Professor Macgregor's point raises the question of whether or not Jesus taught an 'interim ethic'. He supports his general interpretation by quoting the 'militaristically minded but honest Harnack' who, in writing of the three centurions in the Gospels, declares,

'These stories are not told with a view to glorifying the soldier's profession. In all these cases it is of secondary importance to the narrative that the men were soldiers. It is very true that these stories have since been exploited again and again in the interest of the profession of war.' (1)

and Windisch's remark that 'Here again the attitude of Jesus gives no sanction to militarism.' (2)

It is important also to remember that in Luke III.14. it is John the Baptist and not Jesus, who is addressing the soldiers. Even if the words suggest approval of just warfare, as Augustine thinks, it is John who approves, and not Jesus Himself. Jesus of course had the greatest respect for John but He spoke quite openly of the limitations of his authority:

(1) Harnack: Militia Christi, p.52. quoted by Macgregor, p.20

(2) Windisch: Theologische Rundschau, 1915. p.343, quoted by Macgregor, p.20

"Verily, I say unto you, among them that are born of women there hath not risen a greater than John the Baptist; notwithstanding he that is least in the kingdom of heaven is greater than he. And from the days of John the Baptist until now, the kingdom of heaven suffereth violence, and the violent take it by force." (1)

Aquinas quoted John's remarks to the soldiers as a contradiction to the idea that warfare is unchristian, but he did not himself comment on them. It is obvious, however, that he agreed with Augustine's interpretation and ignored the other commentators who did not agree that John's remark amounts to God's blessing on warfare.

The only aspect of warfare in itself that Aquinas considered directly is the laying of ambushes. This he did in the light of the teaching that one should love one's neighbour as oneself, and do unto others as one wishes they should do unto oneself. (2) He apparently thought that the main evil inherent in ambushes is the deception involved, for this was the only aspect that he discussed. Apparently he regarded the rest of the moral aspects of the actual activity and methods of warfare - of which ambushes in fact are typical - as quite compatible with Jesus' teaching

(1) Matthew, XI.11-13.

(2) Matthew, VII.12.

that we should love our neighbours as ourselves. At the same time he did not quarrel with the definition of the enemy as the neighbour.

Perhaps Aquinas focussed his thought on deception, not merely because it is so essential to the laying of an ambush but because Augustine⁽¹⁾ extolled the command to do unto others as we wish them to do unto us as the climax of Jesus' teaching about the way of wisdom, purity and simplicity, and he added that no man would wish another to act towards him with a double heart.

The writer of the Glossa Ordinaria pointed out that since the command follows the promise that God will answer prayer, God's help in obeying it is assured. Another suggestion was that the command supplements the teaching on prayer by encouraging man's co-operation with God in doing good, and yet another was that God's goodness to us must be reflected in our actions to others. Excellence is required. We should behave as a servant to our neighbours, and Augustine stressed that the word 'would' proved that we must do only good things to our neighbours as we can will only good for ourselves. Will exists only in the good, in the wicked it is desire. (2)

(1) Catena Aurea, pp.276-8.

(2) This distinction is clearer in Latin: "Aliqui apposuerunt omnia bona: sed non oportet, quia dicit Vultis. Voluntas autem bonorum, et cupiditas malorum; ideo non est necessarium addere bona." (Commentaria in Evangelia S. Matthaei et S. Joannis, Tomus I, p.111.)

This commandment is supreme and sums up all the teaching of the Law and the Prophets. It comprehends the love of God since he who loves his neighbour must love himself above all things. (1) Its content is plain. We all know what is proper and how we would wish others to behave towards us, and therefore we cannot be prevented by ignorance from doing our duty. And it plainly includes that we should return good for bad and better for good. (2)

In his own commentary on this passage (3) Aquinas repeated Augustine's affirmation that the will always wills what is good, and that evil is the object of desire, so that it is not necessary to add that we should will 'good things'. He pointed out that whereas Jesus said that all the Law and the Prophets hang on the commandments 'Thou shalt love the Lord thy God with all thy heart and with all thy soul, and with all thy mind' (4) and 'Thou shalt love thy neighbour as thyself' (5) here He was careful to omit the word all, and said simply 'This is the Law and the Prophets.' This suggests that this command is less comprehensive than the others. (6) This last opinion is not mentioned in the Catena Aurea

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(1) Augustine.

(2) Gregory.

(3) Commentaria in Evangelia S. Matthaei et S. Joannis Tomus Primus, p.111.

(4) Deuteronomy VI.5.

(5) Leviticus XIX.18.

(6) "Haec est enim lex et prophetarum; et non dicit; Tota lex et prophetarum, sicut in primis praeceptis (infra c. xxii.40)".

indeed it appears to contradict Pseudo-Chrysostom and Augustine.⁽¹⁾

A Catholic Commentary⁽²⁾ confirms that the whole message of the ancient Scriptures which Jesus had come to fulfil is summed up in this commandment to love others as oneself. In all relationships our best available standard of conduct is to give to others in charity, forgiveness and kindness the treatment which we ourselves should like to receive. We thus share our interest in ourselves with our neighbour, and this love we bear for him includes the love of God, which is its true motive. The original setting of the commandment is, perhaps, as in Luke VI.31 where it comes as a climax to the teaching forbidding retaliation, though it would follow equally well after the exhortations not to judge in Matthew Vii.

Aquinas did not reply to the real point of the objection that

'since no man wishes ambushes or deceptions to be prepared for himself, it seems that no one ought to carry on war by laying ambushes'.

Taking one's own will for oneself as a standard, it might be taken for granted that, even if one were a wicked aggressor one would neither desire nor will that one might receive a blow from

(1) Pseudo Chrysostom: "For all the teaching of the Law and the Prophets is summed up in this one 'compendius precept,' Augustine: "This commandment comprehends that to love God, since he who loves his neighbour must love himself above all things. But God is Love; therefore he loves God above allthings."

(2) p.864.

a halberd⁽¹⁾ or be finished off by a morning star,⁽²⁾ but one would prefer the enemy to give in or at least go home. It might be questionable whether this command of Jesus is universal enough to be obeyed literally in such a situation, but the difficulties of applying it should at least have been discussed or realised. Since many of the enemy are not really wicked but possibly only frightened puppets of circumstance or of some unscrupulous lord,⁽³⁾ the right attitude towards them is not easily arrived at. By concentrating on the deception involved, Aquinas avoided the more terrible results and accompaniments, such as individual wounding and killing, which are not so easily reconciled with the love of others, particularly as this includes non-retaliation and love of one's enemy.

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- (1) Eight feet in length with a heavy head which ended in a sharp point and bore on its front a blade like that of a hatchet, on its back a strong hook. (See Oman: The Art of War in the Middle Ages, p.77.)
 - (2) The morning star was a club five feet long, set thickly at its end with iron spikes. (Ibid, p.78.)
 - (3) Infantry was in the twelfth and thirteenth centuries absolutely insignificant: foot soldiers accompanied the army for no better purpose than to perform the menial duties of the camp or to assist in the numerous sieges of the period. Occasionally they were employed as light troops, to open the battle by their ineffective demonstrations... Indeed, their lords were sometimes affronted if they presumed to delay too long the opening of the cavalry charges, and ended the skirmishing by riding in and over their wretched followers. At Bouvines the Count of Boulogne could find no better use for his infantry than to form them into a great circle inside which he and his horsemen took shelter when their chargers were fatigued and needed a short rest. (Ibid, pp.63-4.)

In the war articles Aquinas justified the deceit of one's neighbour which is involved in laying an ambush by quoting Jesus' advice not to give that which is holy to the dogs, or to cast pearls before swine. (1)

In the Catena Aurea (2) all the fathers agree in interpreting the holy thing and the pearl as spiritual truths or sacraments. As pearls are enclosed in shells and hidden in the depths of the sea, so the divine mysteries are enclosed in words and lodged in the deep meaning of Holy Scripture. The more mysterious such mysteries are the more they attract reverence from those without understanding. Baptism and the sacraments should be given only to the faithful, and the pearls only to those who love truth. Pseudo-Chrysostom thought that this conditions our love of our enemies, for although we should not be indiscriminate in spiritual love of our enemies, we should be in loving them in material ways. Our enemies, he said, are our brothers by nature and not by faith, and God Himself does not give spiritual graces equally to the worthy and unworthy, but only material blessings.

The dogs and the swine are the enemies of truth. The distinction between them is that the dogs are unclean in every respect, whereas

(1) Matthew VII. 6.

(2) pp. 268-272.

the swine appear to make some shew of cleanliness. The dogs, therefore, represent the Gentiles, who are unclean in life and faith, while the swine represent heretics who make a shew of calling upon God. The dogs, by disputing, destroy the truth, while the swine are the disobedient.

Pseudo-Chrysostom thought that pearls must be held from dogs and swine alike, but he alone noticed that sometimes it is necessary to give that which is holy to the wicked. Benediction, for example, is given even to Christians who live as heretics, not because they deserve it but to prevent them perishing utterly. Augustine shewed that Jesus sometimes rightly concealed the truth⁽¹⁾ but he noted also that Jesus said some things which many of those who heard Him did not receive, but rejected or despised. In doing this He did not give holy things to dogs or cast pearls before swine, however, He simply gave to those who were able to receive, since it was not right to penalise them for the uncleanness of others. And so, said Augustine, silence should not be held if the matter is about salvation and of urgency even to some only of those present. Nothing should be said of things superfluous or harmful.

In his own commentary,⁽²⁾ Aquinas summed up the words as

(1) John XVI. 12: "I have yet many things to say unto you, the which ye are not now able to bear."

(2) Commentaria in Evangelia S. Matthaei et S. Joannis, Tomus Primus, p. 110.

maning that judgement should be discreet. He understood by the dogs who tear with their teeth, heretics, and by pigs, who trample with their feet, the unclean and the lapsed believers. A dog, he said, is a totally unclean animal, whereas a pig is only partly unclean. The holy thing is a sacrament, and the pearl, the spiritual sense and mystery of the truth. He quoted I. Corinthians 11.14.⁽¹⁾ and Proverbs XXVII.7.⁽²⁾ to shew that such truths are wasted on those who live as animals. Aquinas took over Augustine's explanation of Jesus' speaking good things in the presence of unbelievers, that is that His audience included the good people as well as the bad. Aquinas, in his commentary, quoted Augustine⁽³⁾ and followed the interpretations of Augustine and Pseudo-Chrysostom as given in the Catena Aurea, almost completely.

The Catholic Commentary⁽⁴⁾ states that in this text Jesus was recommending prudence in expounding the mysteries of the Kingdom. In the early Church this principle applied in the question of the admission of the unbaptised to the Holy Eucharist. The comparison between this and the giving of precious things to

(1) "Animalis homo non percipit ea quae Dei sunt."

(2) "Anima satiata conculcat favum."

(3) "Sancta sunt inviolata et immaculata conservanda; margaritaeque pretiosae non debent contemni." (p.110.)

(4) p.864.

animals is only a general one, it says. The animals represent the religiously unappreciative, but it is not possible to take the swine as pagans or the dogs as lapsed Christians.

In using this saying of Jesus to lay down that it is therefore even more right not to let one's enemy know of one's plans, Aquinas seemed somewhat guilty of misunderstanding the nature of the holy thing and the pearl. If it were clear that Aquinas were tagging the text to his argument as a conversational whim or joke it would not be necessary to weigh it so carefully. The nature of the Summa Theologica, however, would seem to allow little scope for jests. He implied that Jesus' recommendation of one kind of discretion justifies the kind of deception which is so much part of war as to be almost war itself.⁽¹⁾ The comparison is inappropriate however, and his own exegesis shows that the saying had never been interpreted or applied in a material sense, but had been always strictly limited to spiritual things.

Aquinas has here answered the claim of one text from the

(1) A.P. Wavell describes the best soldier as having in him a 'seasoning of devilry,' the ideal infantryman as 'cat-burglar, gunman, poacher' because whatever his skill he must risk nothing. The good soldier will soon learn the tricks of the trade, some useful, some bad, such as scrounging or looting. (The Good Soldier, p.10.)

New Testament by quoting another. He did so again in answering the objection that ambushes are opposed to justice as well as to love of one's neighbour, except that this time the texts are from the Old Testament. Following Augustine, he thought that the fact that God commanded Joshua to lay ambushes for the city of Ai⁽¹⁾ proves that the deceit involved is no concern of that justice which in Deuteronomy XVI.20, we are bidden to follow.⁽²⁾ There can be no doubt that such a faith as Aquinas must have had in the literalness of such warlike commands in the Old Testament must have profoundly influenced his general attitude to war, and to believe that God has often or even once, commanded war in the past must make the believer, to some extent, willing to believe in the likelihood that God might sanction it at any other time.

The modern Catholic understanding also accepts such Old Testament wars as literally commanded by God. The first unsuccessful attempt on Ai is accepted uncritically as the certain result of Achan's violation of the herem, and is followed

(1) Joshua VIII.2.

(2) "Thou shalt follow justly after that which is just." It is difficult to understand what A.C.F. Beales means, therefore, when he writes that 'St. Thomas... in answering whether ambushes, etc., may be used in war, and in answering with an emphatic negative,... amplifies St. Augustine's point about keeping faith with the enemy.' (The Catholic Church and International Order, p.104.)

by God's commanding a second attack, by laying an ambush of 3,000 men⁽¹⁾ on the west side of the city.

Father Stratmann's attitude⁽²⁾ is not perhaps typical of that of most Roman Catholics, but if such an exceptionally 'pacifist' thinker can hold on to the Godliness of Old Testament wars it seems doubtful whether any Roman Catholic can reject it. He is in fact however, not completely satisfied as to the exact interpretation of the relevant texts. He refers to certain interpretations of the Old Testament which would remove or explain away the conception of a warlike God, such as Origen's typical and allegorical interpretation of the wars as shadowy pictures of spiritual battles against sin and darkness, he quotes Origen's refusal to find in the Old Testament a God of war,⁽³⁾ and notes that Bishop Ulfilas left the war books out of his translation of the Bible, but he himself accepts them as God's doing because God may command a thing which is wrong in itself for the sake of achieving His own good purpose. A 'wrong' so commanded therefore becomes good. Whether or not the Old Testament battles were moral only because they were exceptionally authorised by God in some special circumstances, or whether or not they were authorised by

(1) A Catholic Commentary on Holy Scripture. pp.283-4, Note the Catholic Commentary says the 30,000 of the usual translations is too many for an ambush; 3,000 is better.

(2) Stratmann: The Church and War, pp.80-84.

(3) "Unless the terrible stories of war in the Old Testament are to be considered allegorical, the Disciples of the Lord Jesus who came to teach peace, would never have allowed them to be read in Church," (p.81)

God's ordinary laws of morality, Father Stratmann holds that they did not establish a precedent which guarantees the justice of war for all times. 'It is not fair, on account of the Biblical wars, to justify war for all time as people are so fond of doing.'⁽¹⁾ The Old Testament wars must be understood in their proper context. By suppressing idolatrous and wicked nations they furthered God's plan of bringing His knowledge and government to the whole world. Such a hard conversion - which must often have proved fatal! - was meant to teach fear and atoning justice to the heathen and to lead them thereby to a knowledge of peace and love. The Israelites themselves did not escape the punishment they administered.

Father Stratmann calls the Old Testament wars a divine school particularly fitted for toughening up a 'sensuous'⁽²⁾ nation, and particularly suited to its stage of development. They were an expression of God's judgement, and the continual success of the Israelites proved their divine calling and protection. Old

(1) p.82.

(2) p.82 Victor White agrees: "We need only recall that had not the Children of Israel fought some uncommonly cruel and unsporting wars, and at the behest of their God, they would not have survived, and Christ, the Prince of Peace would never have come from their stock. There would be no New Testament without the Old, and no Old without war."
(The Morality of War, p.4.)

Testament warfare, like the rest of Israelite history, is unique in that God was specially involved, interested, active and busy in commanding and controlling all activities. The wars were absolutely religious with God the Supreme Commander, and human leadership quite subordinate.⁽¹⁾ Therefore they can never justify irreligious wars. Their expression of religion and of divinely inspired patriotism, ennobled and beautified by divine poetic songs and culminating in the sacrificial death of the enemy, makes them incomparable with modern militarism.

Nevertheless, Father Stratmann believes that the most perfect periods of Old Testament history, those which reached the highest and most universal conceptions of God, were the earliest and the prophetic, and that these were also the times of peace and peace theories. God condescended to be a national God and the ally of a single nation, when the people were very imperfect in mind and faith, and when they were hardhearted, but even then, he says, God, as the prophets declared, was more interested in overcoming war than in merely advocating it. Still, Father Stratmann does not give up the principle of Old Testament wars.

(1) The enemy was not always so subordinate however. To the Jews at this time their God was a national God, and His limitations were recognised frankly when He came up against the superior weapons of other peoples. Joshua 1. 19: "The Lord was with Joshua: and He drove out the inhabitants of the hill country; for he could not drive out the inhabitants of the valley because they had chariots of iron."

Their goodness lay in the fact that they were commanded by God and 'Would that we could call forth the noble ethos and aim which lay beneath the Old Testament wars!'⁽¹⁾ Even though he condemns modern warfare as of an utterly different nature⁽²⁾ he holds that if God commanded a war today that war would be a righteous one. Father Hislop⁽³⁾ thinks that the lesson of the Old Testament idea of holy warfare is that it was undertaken by God and not by man. As morality develops, man, he hopes, should be able to abandon physical warfare and to rely upon weapons of the Spirit. This interpretation leads to the awkward alternative possibilities of man evolving a higher morality than God's or of the ways of God being so unlike the ways of man that what is moral and good for God is immoral and bad for man.

The Protestant attitude toward the Old Testament notion of God as a God of battles, and the relevance of the Old Testament wars to the question of the righteousness of war today is rather less serene and unanimous.⁽⁴⁾ It recognises that the warlike morality of the Jews moved towards a more peaceful notion of their mission, and that their understanding of Jahveh as a national god of battles gave way to a notion of God as a universal God of

(1) p.83.

(2) "Would anyone dare to compare what Benedict XV calls the 'suicide of a modern European war, caused as it is by capitalism, imperialism and militarism, with the conflicts of the Jewish Theocracy.'"(pp.83-4)

(3) Pax, October 1957: Report of an address by Very Rev.Ian Hislop

(4) See below pp. 118-119.

love and mercy. Protestant thinkers, however, differ about whether or not all the brutal and cruel incidents of Old Testament warfare can be explained as wholly the outcome of man's misunderstanding and sin. Some of them see the wars as partly, at least, an instance of God's adapting Himself and His commands to a particular stage of human imperfection. Whether or not God did literally command Joshua to ambush Ai, therefore, is for them an unsettled question.

It is difficult to sort out what may be of genuine spiritual value in the conception of Holy War. Dr. Kaufmann thinks that the Jews were possessed by a master-idea of God fighting their battles, which was 'not superimposed on to the legends by a later literary redaction',⁽¹⁾ but which actually shaped the narratives of the events as they happened.⁽²⁾ The imaginative strength of this master idea moulded real events into a manifestation of itself. The defeat of Ai, therefore was the punishment not only for the material and tactical mistake of the spies who said that a mere two or three thousand men would be enough to carry through the attack, but also for the spiritual

(1) Yehezkel Kaufmann: The Biblical Account of the Conquest of Palestine, p.74.

(2) The account of the events was 'idealistic', 'legendary', right from the start. See Kaufmann, p.75.

sin of Achan, and victory came only after both errors had been put right. Dr Kauffman points out that although the story of the natural events at Ai is in a sense detachable, that story is itself shaped by the master idea of the Jews,⁽¹⁾ inasmuch as the error of the spies is regarded as the beginning of punishment. He shows how the 'natural historical story' and the 'religious story' are woven together; the Bible seems to shew that the fate of Ai was decided by God's commanding Joshua to raise his javelin as a sign to his troops rather than by mere soldierly skill. As God was thus directly involved in, and, in fact Commander-in-Chief of the military tactics, the natural and supernatural in the story are closely related. Indeed, by looking further into the story it appears that they are very intricately intermingled, even more so than Dr Kaufmann has suggested, so that it would seem unwise to think of separating one from the other.

One of the rules of the Holy War, for example, was that as few troops as possible should be sent into the field so that the expected victory could be attributed to God rather than to superior numbers. The simple-hearted spies who asked for a task-force of no more than two or three thousand troops to deal with resistance at Ai seem to have been willing to work by the rule.

(1) Ibid., pp. 76-7.

As the two or three thousand were unequal to the task, however, natural common sense would suggest that when they had failed, a bigger force might succeed. As the Bible says, God commanded Joshua to take all ⁽¹⁾ his people to the attack, it would seem that God Himself worked through natural and overwhelming material forces eventhough by so doing He went against an important principle of the Holy War, for the people of Ai were only 12,000 against Joshua's 30,000.

What followed the overwhelming victory is perhaps even more interesting. Achan is the most important human figure in the Ai story insofar as he signified the cause of the Jewish defeat in the first battle. His sin was that he broke the herem by keeping for himself some of the spoils from Jericho. But after he and all his family had been executed because he had caused the defeat to his people and as breaker of the herem, God commanded Joshua to make the second attack on Ai. He was to raze it to the ground, but to bring away the spoils and cattle.⁽²⁾ The Jews, therefore, did well out of poor Achan's sin. It would seem hard that God should be thought contrary for allowing later what had been forbidden in Achan's lifetime, but as the story stands the

(1) 30,000 men in the Authorized Version. A Catholic Commentary however, says such a force would be too unwieldly for an ambush and alters the figures to 3000. No authority is given, but the alteration would bring the story more into line with the rules of the Holy War mentioned above. But the ambush force was only part of Joshua's army.

(2) Joshua VIII.27

command to take spoils and cattle does come before Ai had been razed. After the people of Ai had been killed, Joshua might have found good reasons for gathering spoils and cattle. His people may have needed food and other supplies and he must have realised that Achan was not the only person to consider the herem rather wasteful. Achan's 'sin' may have made him realise, too, that although razing instead of taking over conquered cities stopped his troops settling down to the business of their own lives and kept them loyal, the wholesale waste of cattle and spoil could only be a temptation to his people and a threat rather than a help to their morale. Achan and his household therefore, might seem to have been martyrs in the cause of good sense. However, as Joshua's easing of the herem followed God's command, it might also seem that not only did Achan's sin bring material goods to his fellow Jews and more cunning to the mind of Joshua, but that it sharpened the wisdom of God Himself!

Joshua's care for the morale of his people was, says Dr Kaufmann, a sign of God's grace and of his own dominating personality. It was to help morale that Joshua kept war and land settlement strictly apart. To do this he held his own

people in a kind of captivity for the whole length of the war, for if they had been allowed to settle on the conquered lands they would have been beyond Joshua's reach when he wanted to call on them to undertake further conquests. "Throughout the whole war," writes Dr Kaufmann,

"Joshua does not occupy a single city,
nor does he rebuild a single city.
He only destroys and lays waste." (1)

He thinks that the ruthless destruction and cursing enjoined by the Jericho ban may be directly linked to the need to thwart the satisfaction of the real motive for the people's going to war, which was the hope of winning a settlement on the land. Land starved as the Jews were, settlement would have broken their unity, and this had to be maintained at all costs. (2)

It is obvious, therefore, that a strange mixture of material motives and religious preconceptions and fanaticisms lay behind the battle at Ai, which ended in a destruction so ruthless and wholesale as to be wholly satisfying to all who believe it was the will and work of the Almighty:

(1) p.92.

(2) Some have thought that the Jews, leaders as well as people, fought for wholly material ends. "... The long line of Hebrews whose exploits adorn the pages of the Biblical books of Judges did not fight, in the first place, because they were worshippers of Jahveh. They fought because the economic and political conditions of the time were intolerable. They fought because the Philistines and Canaanites together could not evolve an order that made life bearable for such as the Hebrews then were." (Graham and May: Culture and Conscience. p.177.)

"... And it came to pass, when Israel had made an end of slaying all the inhabitants of Ai in the field, in the wilderness wherein they chased them, and when they were all fellen on the edge of the sword, until they were consumed, that all the Israelites returned unto Ai, and smote it with the edge of the sword. And so it was, that all that fell that day, both of men and women, were twelve thousand, even all the men of Ai. For Joshua drew not his hand back, wherewith he stretched out the spear, until he had utterly destroyed all the inhabitants of Ai. Only the cattle and the spoil of that city Israel took for a prey unto themselves, according unto the word of the Lord which He commanded Joshua. And Joshua burnt Ai, and made it an heap for ever, even a desolation unto this day. And the king of Ai he hanged on a tree until eventide: and as soon as the sun was down, Joshua commanded that they should take his carcase down from the tree, and cast it at the entering of the gate of the city, and raise thereon a great heap of stones, that remaineth unto this day..." (1)

The majority of Protestant thinkers, even non-pacifists, would not see in such a wretched story ground for the morality of war today. Yet Old Testament influence has been so strong for so long in the past that it still lingers. Canon Raven is a pacifist, but his complaint would be echoed by many non-pacifists:

"... Until lately the Old Testament stood alongside the New as inspired, authoritative, inerrant: and large portions of the Old Testament glorify the God of Battles rather than the Father of Our Lord Jesus Christ. A

(1) Joshua, VIII. 24 - 9.

people brought up at home and in Sunday Schools upon the legends of Israel, taught to reverence Jael, the murderess of Sisera, and Samuel hewing Agag in pieces and David "the bloodthirsty and lascivious brigand" absorbed the outlook of these savageries and failed to realise that they represented a time and a faith utterly remote from that of Christ. Protestantism has not yet outgrown its bibliolatry: Catholicism still professes it. If Scripture as a whole is infallible, then warfare has its sanction..."(1)

He thinks the traditional doctrine of the just war is based above all on this uncritical reverence for the Old Testament.

In the war articles of the Summa Theologica, however, Aquinas referred more often to the New Testament than to the Old Testament in his proofs that war is compatible with Christianity.

Jesus said

"Think not that I am come to send peace on earth. I came not to bring peace but a sword" (2)

Aquinas did not directly quote this saying in full but in answering the objection that war opposes peace, and must therefore be a sin, he claimed that those who wage war justly aim at true peace and are opposed only to that evil peace which Jesus did not come to bring. Thus he implied that a just war

(1) Raven: War and the Christian, p.51.

(2) Matthew, X.34.

(3)

participates in the sort of warfare which Jesus did come to bring, and that it leads likewise to true peace. The nature and occasion of such Christian warfare as Jesus was talking about are therefore of great importance in coming to an understanding of the whole just war theory.

In the Catena Aurea,⁽¹⁾ Jerome said that the warfare Jesus stimulates is the result of His teaching. Every commentator quoted interpreted the sword which Jesus brought as the word of God. Hilary described the sword as the sharpest of all weapons, the emblem of the right of authority, of the impartiality of justice and the correction of offenders, but he noted also that the word of God is likened to a sword in Ephesians VI. 17⁽²⁾ and Hebrews IV. 12,⁽³⁾ and concluded that the sword means the preaching of Jesus. Augustine accepted this interpretation. Chrysostom explained that Jesus used such sharp language in order to warn his disciples of the difficulties which they must endure, and that this warfare is not of his making. Augustine also remarked that the conflict which Jesus arouses is 'not of His setting', but that of the wicked who react towards him in a warlike way.

(1) pp. 394-7.

(2) "And take the helmet of salvation, and the sword of the Spirit, which is the word of God."

(3) "For the word of God is quick, and powerful, and sharper than any twoedged sword, piercing even to the dividing asunder of soul and spirit, and of the joints and marrow, and is a discernor of the thoughts and intents of the heart."

Chrysostom added that in saying that He brings the sword, Christ is using metaphorical language and speaking "according to the manner of Scripture."

This warfare is always interpreted as the war of faith against unbelief and sin, which permeates all other divisions and societies and sects. It invades and divides the intimate unity of the family and even the personality itself. Jerome pointed out that every household in the world was divided about faith in Christ, and Chrysostom said that this warfare is more dangerous even than civil war because it is a warfare not merely between acquaintances but between near kindred. Such enmity within families was found even in Old Testament times. Rabanus Maurus held that in differences about creeds it is impossible to preserve mutual rights. The devil, said Gregory, particularly likes to take the opportunity of making his thrusts through those who are in relationships of love and affection with the Christian.

Augustine made an allegory in which such warfare seems to work at two main levels. On the higher level the conflict of father and son represents that of Christ and the Devil, who was His son: that of the daughter and mother represents the conflict of the people of God and the city of the world; which is the wicked society of mankind often symbolised in Scripture as

Bab ylon, Egypt or Sodom; and the conflict of daughter-in-law against mother-in-law that of the Church and the Synagogue.

On the lower level this conflict exists in man's own nature. Man's carnal affections represent the foes of his own household, and the divided house represents the divided soul in which sin and unbelief war against those parts which have been regenerated. After discussing the reconciliation of this warfare with the peaceful teaching of Jesus, Augustine decided that the most perfect peace is achieved when that which is diseased and which causes strife is cut away. The wreck of Babel brought to an end a bad union, and St. Paul had to 'divide' those who conspired against him.

In his own commentary⁽¹⁾ Aquinas distinguished between good peace and bad peace. The good peace, of which the angels sang, and Paul spoke⁽²⁾ is the peace achieved by Jesus in His Atonement which abolished the enmity of the law and won for man the possibility of reconciliation with God. The bad peace is that which arises from carnal affection and is only

(1) Commentaria in Evangelia S. Matthaei et S. Joannis, Tomus Primus, pp. 149-50.

(2) Ephesians 11.14 - 18. "For he is our peace, who hath made both one, and hath broken down the middle wall of partition between us; having abolished in his flesh the enmity, even the law of commandments contained in ordinances, for to make in himself of twain one new man, so making peace; and that he might reconcile both unto God in one body by the cross, having slain the enmity thereby; and he came and preached peace to you which were afar off, and to them that were nigh."

apparently tranquil. Jesus came to remove this latter peace from the earth. Aquinas interpreted the sword as the word of God in spiritual warfare, and the warfare as the conflict between those who believe and those who do not. In this sense the conflict is occasioned by Christ who is the Word of God, but caused by the malice of those who do not believe. However, it is also caused by Christ because He permits it, just as God causes the wicked to be abandoned to their own chosen ways. (1)

The two sides in this warfare are believers and unbelievers. The sword divides not those things which are diverse and extraneous, but those which are most closely joined together. The closest unions are the natural ones of friendship and marriage, and those domestic and social ones which are founded on community of interest. (2)

Against all of these Jesus sends the sword. The meaning he gave is that since Jesus said that He had come not to destroy the law but to fulfil it, and since the law commands all to 'honour thy father', one ought to obey one's father unless the obedience goes against love of God.

Aquinas had followed quite closely the general interpretation

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- (1) "Hoc tamen causatur etiam ab eo, quia permittit, sicut habetur ad Rom. 1. 26. Propterea tradit illos Deus in passiones ignominiae."
- (2) "Duplex est enim maxima conjunctio: quaedam est conjunctio naturalis; quaedam domestica, vel oeconomica; ideo contra utramque mittit gladium". (p.150.)

given in the Catena Aurea. A slight inconsistency which appears in his exegesis is that, quoting Paul, he seemed to identify the evil peace which Jesus abolishes, with 'the enmity, even the law of commandments contained in ordinances' and yet claimed, on the basis of Jesus' own words that He came to fulfil the law. He did not appear to lean on any particular commentator, and more than any he emphasised the responsibility of God for this warfare.

The Catholic Commentary⁽¹⁾ recalls that Jesus was introducing an important modification into the Messianic expectation of His days. The peace He brought was that between God and man, not that which the world might bring, between man and man. The sword is His doctrine and its spiritual edge 'cuts if necessary through the natural domestic loyalties.' In this spiritual warfare Jesus was prepared to suffer and die.

In suggesting that Jesus was using a tragic irony for expressing his purpose in terms of war rather than of peace, Professor Macgregor agrees with the Fathers who, because of the wickedness of men, see the 'warfare' as the inevitable

(1) p.870.

and involuntary result of Jesus' mission of peace. Aquinas, however, thought Jesus 'causes' it. But all agree that it takes place in a wholly spiritual dimension which is quite unlike that of material warfare. None of them, for example, expects members of a household to smite each other with literal swords.⁽¹⁾ The conflict is spiritual and its object is to mark off good from ill in all things.

When, therefore, this saying of Jesus was used in the war articles to justify physical warfare, it would seem that Aquinas made an uncritical, clumsy and one-sided application of the truth which Jesus was trying to make clear. Neither his own exegesis nor that of earlier and later times, apart, perhaps, from Augustine's, whose suggestion that peace is achieved when that which is diseased is cut away appears to refer to war, gives any support to such an application. If the evil against which Jesus has brought his sword is so pervasive as to divide man himself and his closest relationships, it must be present on both sides in any physical warfare. The evil peace and the good peace permeate and divide all societies, so that it is impossible to imagine a war of states

(1) Macgregor (p.20) notes that Luke XII. 51. has 'division' instead of 'sword': "Suppose ye that I am come to give peace on earth? I tell you, Nay, but rather division."

which would shew all the good peace on one side and all the bad peace on the other. The only war in which this could occur would be one in which one society was composed of perfect Christians and the other of wicked pagans. Aquinas, presumably, did not think that the only just wars were those in which Christians alone fought on the just side and pagans on the unjust, and yet by justifying war on the ground that the just side always aims at the peace Jesus came to bring, he did, in fact, identify a just war with a Christian war, and justified it on the ground that it is Christian. This would certainly eliminate the possibility of justice in any war in which Christians fought on both sides.

In the war articles, however, Aquinas was little concerned with the peace between God and man which, as A Catholic Commentary stresses, was the peace which Jesus came to bring. On the other hand, there is some truth in Aquinas's understanding that a good motive of creating peace really can exist in those who fight in war. Many who fought in the last war were at least partly

Inspired by self-sacrificing compassion in their efforts to stop Hitler's extermination of the Jews.⁽¹⁾ But if true peace has to be brought into being by deeds causing suffering and slaughter, it must be indeed, in a way Jesus did not mean, the peace that passeth understanding.⁽²⁾ On the whole, then, the highest peace at which even a just war aims seems to be the worldly peace which Jesus, according to Aquinas, came to remove from the earth.⁽³⁾

Further understanding of specifically 'Christian warfare' might be found by studying what Jesus meant when he commanded his disciples to buy swords.⁽⁴⁾ Although it seems an obvious text to quote in arguing that Jesus sanctioned warfare, Aquinas

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- (1) However, whether or not, for Aquinas, the Jews would have been worthy of Christian compassion and whether or not the compassion would have been worthy enough to make the war a just one for those who shewed it by fighting cannot be decided easily, for the Jews, of course, were heathens. Could Aquinas possibly have thought their extermination would have brought the peace Christ came to bring?
- (2) Victor White, however, seems to be quite happy about the coincidence of love and cruelty when he points out that Jesus' coming was heralded not only by the angels' promise of peace to men of good will, but also by man's massacre of the innocents. (The Morality of War, p.4.)
- (3) "... Ista pax est carnalium affectuum. Istam non veni ponere. Unde Apoc. VI.14: Datum est ei ut sumeret pacem de terra..."
- (4) (Commentaria in Evangelia S. Matthaei et S. Joannis, Tomus Primus, p.149.) The reference, however, is incorrect.
- (4) "... And he said unto them, When I sent you without purse, and scrip, and shoes, lacked ye anything? And they said, Nothing. Then said he unto them But now, he that hath a purse, let him take it, and likewise his scrip: and he that hath no sword, let him sell his garment and buy one. For I say unto you, that this that is written must yet be accomplished in me, 'And he was reckoned among the transgressors', for the things concerning me have an end. And they said, Lord, behold, here are two swords. And he said unto them, It is enough." (Luke. XXII.36.)

did not mention it in the war articles. He did, however, mention the incident in which Peter drew his sword to defend Jesus.⁽¹⁾ The two events are connected, since there can be no doubt that the sword which Peter drew was one of those produced at Jesus' request at or after the Last Supper. In the Catena Aurea Chrysostom related the later to the earlier incident and identified the "swords" which the disciples took with them to defend Jesus with the knives they had used when cutting the paschal lamb.⁽²⁾

The Fathers' main difficulty with the command to buy swords is that it seems to contradict other teachings of Jesus.⁽³⁾ Earlier he had bidden his disciples take neither purse nor scrip but to rely wholly on God, and he had preached non-resistance. Some of them suggested that Jesus was indicating that God's benevolence and protection, which had previously supplied all the needs of the disciples, would be a little withdrawn after his death, and that he wished them to experience the hardship of supporting themselves. In this way they would realise how much they depended upon God and learn moderation and humility. Bede

(1) Matthew. XXVI. 51-4.

(2) Catena Aurea. pp. 918-920.

(3) Ibid., pp. 716-720. e.g. Luke X.4, ff.

noticed that the disciples were not trained alike in times of persecution and times of peace. During the persecution and when Christ was near to death the disciples were allowed to arm themselves with the necessities of life until the time for preaching the Gospel came round again. Bede, therefore, would agree with Augustine that commandments, counsels and permissions can be changed according to the diversity of the times without inconsistency in the lawgiver.

The task of reconciling the forbidding of striking with the command to buy swords provoked a wealth of suggestions. One interpretation held that the command to buy swords required only an appearance of a defensive attitude and not physical retaliation, for which purpose shields and helmets would have been needed, besides swords. Two swords were insufficient anyway, for not even a hundred would have been enough for the disciples' defence. Another interpretation held that Christ meant to convey that with His own death at hand a time of danger and death, in which they would suffer much misery, was upon them. The Scriptures, it was pointed out, often use the prophetic imperative, and by using it here Christ foretells the time in which the disciples forget His gifts, His Law and His passion and take to the sword. Yet another interpretation held that

Christ's words about buying swords were really addressed to the individual Jews and that He thereby foretold what would happen to them. By setting before Him two swords, the disciples shewed that they had misunderstood him. That Jesus said simply "It is enough" might mean either that He did not want to rebuke them and so dismissed the subject, or that He was making an ironic expression about the uselessness of two swords against the multitude of unbelievers. The incident of the two swords, in fact, was taken to shew that Jesus suffered voluntarily and that His cause was not to be won by physical blows, for one sword was never taken up and the one which Peter used to cut off Malchus's ear not only shewed the uselessness of fighting but led to a demonstration of healing.⁽¹⁾ The swords themselves may mean the Old and New Testaments and the words "It is enough" that, although retaliation was lawful under the Old Law, under the perfect goodness of the New Law the Bible was to be protection enough.⁽²⁾

Aquinas left no commentary of his own on Luke, but in his commentary on Matthew XXVI 52 he said, without comment, that

(1) Bede.
(2) Ambrose.

the disciples interpreted the command to buy swords in Luke XXII to mean that swords were necessary.⁽¹⁾

A Catholic Commentary⁽²⁾ explains the contradicition between this command to buy swords and Christ's other commands never to rely upon material possessions and support⁽³⁾ by saying that by the former command He meant to forewarn His disciples that, although the principle of His teaching wasunaltered, there were dangerous times ahead. Whereas they had so far had all their needs from the good will of friendly hearers, now they must be ready to meet scorn, hatred and times in which even the bare needs of life could be got only by violence. But in saying "He that hath not a sword, let him sell his garment and buy one," Jesus was using a proverbial saw and not recommending His disciples literally to take up arms, and the words "It is enough" could be taken as his amused answer to his simple minded followers and amount to no more than - O yes: those two will be quite enough for what I had in mind. One school of thought, indeed, thinks that Jesus simply wanted to change the subject of talk.

(1) p.370.

(2) p.966.

(3) (a) "... Carry neither purse, nor scrip, nor shoes: and salute no man by the way ..." (Luke X.4.)

(b) "... When they which were about him saw what would follow, they said unto him, Lord, shall we smite with the sword? And one of them smote the servant of the high priest, and cut off his right ear. And Jesus answered and said, Suffer ye thus far. And he touched his ear and healed him..." (Luke XXII. 49-51.)

(c) "... Then said Jesus unto him, Put up again thy sword into his place: for all they that take the sword shall perish with the sword..." (Matthew XXVI.52. c.f. Genesis IX.6. and Revelation XIII.10.)

Such arguments do not seem enough to make good the assumption that they are an explanation, for even if it is allowed that Jesus was not altering the principle of his teaching, the fact that his disciples were to become "like men who have no friends and can obtain even the bare necessities of life only by violence" implies that he did sanction violence at certain times. In passing it is worth marking that if it is allowed that Jesus was using a proverb when recommending buying swords, the same could be said of His words in one of the texts which have been taken to forbid using swords. "Whoso sheddeth man's blood, by man shall his blood be shed"⁽¹⁾ and "he that killeth with the sword must be killed with the sword"⁽²⁾ point to a traditional saying which lay also behind the word "All they that take the sword shall perish with the sword".⁽³⁾ There is a possibility, therefore that Jesus has been thought both to approve war and to forbid it simply because he had a way of speech which made use of the very concrete proverbs of the common folk.

Despite Augustine and Bede, therefore, Roman Catholic thinkers have never pressed the words about buying swords to justify warfare. Most have sought to shew that Christ did not mean to do anything of the kind even when they have to note that He was prophesying that some kind of physical violence was only too likely in the near future.

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- (1) Genesis. IX.6.
 (2) Revelation XIII. 10.
 (3) Matthew XXVI. 52.

The command to buy swords has often bewildered Protestant thinkers too, but they, like most Roman Catholic thinkers, generally agree that it should not be used to justify war. Some of them, however, have taken it literally, and Professor Macgregor quotes the rousing interpretation of Spitta:

"... See! Jesus has summoned his followers to armed defence! He was no tender pacifist!..." (1)

But he also refers to Weiss, who says the command contradicts the other texts and goes against the whole spirit of early Christianity, and J.M.Creed and F.C.Burkitt, who, although they are non-pacifists, do not allow that this text means that Jesus sanctions the use of arms.

Many Protestant explanations of it are very like those in the Catena Aurea - for example, that it was a warning of coming disaster which the disciples misunderstood, and that the words "It is enough" were half rebuke or, as Jesus must have known the uselessness of two such weapons against the power of Rome, were uttered ironically. A number of writers accept the opinion of some scholars that we owe the command to buy swords to the Lucan editor's wish to make Peter's assault on Malchus more understandable. Luke, in general, is rather sympathetic

(1) pp.22-4.

to the weaknesses of the disciples, and in fact, this is the only place in which this command has been recorded. The interpretation suggested by Professor W.A.Curtis is that as there is no evidence that Jesus forbade his disciples to carry arms when they were beyond the protection of the law on the way from Galilee to Jerusalem, the command to buy swords was meant to forewarn them that henceforth their wanderings would take them far afield in lawless lands where they might find useful such weapons as were forbidden them in Jerusalem, where they were under the protection of the law.⁽¹⁾ However, the crucifixion did not mean that the disciples necessarily had to wander beyond the pax romana and the line between within and beyond the law would seem rather arbitrary. Although there seems to be a real link between the command and Jesus' arrest and death, and although it may seem that at one point the use of weapons was authorised, it is clear that the swords were not commanded for His own defence as the authority was withdrawn as soon as it had led to the injury to Malchus.

When he referred to this incident in the war articles Aquinas quoted from Matthew, which does not name the disciple

(1) Matthew XXVI. 52. Professor Curtis's suggestion is discussed in The New Testament Basis of Pacifism, pp. 22-3.

who struck the high priest's servant. When he dealt with this passage of Matthew⁽¹⁾ in the Catena Aurea,⁽²⁾ however, his quotation from Jerome gives the disciple's name as Peter on the Authority of John. According to Jerome, Malchus, whose name means king of the Jews, was a slave to the ungodliness and greed of the priests. He lost his right ear to symbolise the Jews' loss of spiritual insight. Peter represents the Gentiles who despoil the Jews. His cutting off of the ear signifies that the disobedient slaves of the priesthood are prevented from hearing spiritually, while the restoration of the ear signifies the restoration of spiritual insight to those Jews who believe. When Jesus hinders Peter, he shews that he knows he has to die to save mankind. His example teaches the faithful to endure adversity courageously, and his words "all they that take the sword shall perish with the sword" emphasize that they should not resort to physical self-defence.

Aquinas summarised Augustine's distinction between "to take the sword" and "to use the sword." Jesus commanded the disciples to take the sword, but not to smite with it. Peter sinned in this, as did Moses when he slew the Egyptian, but both acted through human love, hatred of injustice and a warmth of spirit

(1) Matthew XXVI. 52.

(2) pp. 918-920.

capable of good, so it was quite fitting that Peter should become ruler of the Church as Moses had been ruler of the Synagogue.

Hilary became allegorical and rather allowed his fancy to take wings. As all who do take a physical sword, whether under authority or in self-defence, obviously do not perish by it, Christ, he said, must have meant by the sword which is to kill all who take the sword, the fiery sword which waves before the gate of Paradise and that Sword of the Spirit which is part of the armour of God. In commanding Peter to put up his sword, Jesus, he thought, shews that His weapon is the sword of His mouth, while the reference to the legions of angels which He might have summoned was meant to signify that He suffered voluntarily. He had no need of apostles to fight for Him, as He could, had He so wished, have called upon seventytwo-thousand angels. This, said Hilary, shows that the armies of heaven have divisions into legions like earthly armies.

In his commentary⁽¹⁾ Aquinas identified the sword used by Peter with the cultellus⁽²⁾ used for carving the paschal lamb.⁽³⁾ The ears signified hearing - the right the sensitivity to spiritual, the left sensitivity to temporal things. Peter, therefore, cut off the Jews from the teaching of the Kingdom of the spirit

(1) pp. 370-371.

(2) cultellus - a small knife

(3) Aquinas here followed Chrysostom.

and gave it to the Gentiles, to whom he was the first preacher. Jesus, said Aquinas, first admonished both Peter and the servants and then gave reason for the admonition with the words "all they that take the sword shall perish with the sword." It is clear, therefore, that this reason, whatever its meaning, was here understood by Aquinas to refer to the weapon used by Peter, whereas in the war articles he contrived to use the admonition to shew that war is forbidden to clerics, and the reason, to justify warfare. Christ's behaviour on this occasion was meant to shew martyrs that they should not defend themselves, but suffer for Christ's sake. This lesson, said Aquinas, can be seen in three ways. Firstly, by His warning words "all who take the sword shall perish by the sword," He eased or saved from the punishment in store for such misdeeds. Secondly, by saying that if He had wished he could have asked God for help, and by not asking for it He shewed that suffering was His own will, and thirdly, by saying "How else shall the Scripture be fulfilled" He shewed that He had God's authority for what He did.

After noting Augustine's remark that not all who bear swords do die by the sword but that some die of fever,⁽¹⁾ Aquinas made

(1) Louis IX died of fever in A.D.1270 while crusading.

elaborate suggestions about the meaning of the sword itself. The sword, he said, is threefold and can be interpreted in three ways. Firstly, there is a material sword which has been drawn by sinners.⁽¹⁾ Secondly, there is a sword of divine judgment.⁽²⁾ And thirdly, there is a sword of the divine word,⁽³⁾ Jesus' saying, therefore, should be understood in three ways. At this point the symmetry of the sword play has been broken, for Aquinas did not make clear how the three ways arise from the threefold significance of the sword, and, in fact, he seemed to give only two ways of understanding the saying. Those who kill with the material sword, he said, shall not only perish by the sword, but perish by their own swords.⁽⁴⁾ On the other hand, the sword can be understood as the sword of condemnation, turning this way and that, which God put before the gate of Paradise.⁽⁵⁾ This sword of Judgment falls upon those who condemn others or those who on their own authority take what does not belong to them. From the text, then, it would seem that Aquinas, for some reason or other, either did not fit

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- (1) "The wicked have drawn out the sword and have bent their bow to cast down the poor and needy, and to slay such as be of upright conversation. Their swords shall enter into their own hearts, and their bows shall be broken." Ps. XXXVII. 14 - 15.
- (2) "And I will make void the counsel of Judah and Jerusalem in this place; and I will cause them to fall by the sword before their enemies." Jeremiah XLIX.7.
- (3) And take the sword of the spirit, which is the word of God. Ephesians VI. 17.
- (4) "De gladio materiali, quia qui gladio perimit, gladio peribit, idest suo, non alieno."
- (5) Genesis.111.24.

the sword of the spirit into his threefold interpretation, or identified it with the sword of judgement. The clearness of the threefold division suggests that he would not forget the sword of the spirit accidentally, and so it can be taken that he made the assumption that God's judgement and God's word can be discussed as if they were the same thing.

This broken symmetry is all the more awkward because Aquinas did not consider how the threefold notion of the sword was linked on the one side to the sword which was to be 'put up' and on the other to the sword by which those who take the sword shall perish, that is, he did not say whether or not the sword divinae sententiae is the sword which is taken up or the sword which punishes. If indeed the same sword is meant, and this seems likely because Aquinas thought those who take the sword unlawfully perish by their own swords, it is not easy to see that the sword divinae sententiae can have any other meaning than that created by this identity.

For all his elaboration, therefore, Aquinas did not really clear up the significance of the swords. It would be hard to say now whether he was beaten by his own elaboration or whether he ought to have elaborated even more elaborately, but

it seems not to have been an entirely fruitful exercise.

Of the legions of angels Aquinas noted that Jesus said He could have asked⁽¹⁾ for their help, not that he could have called or brought them. By choosing this word, He stressed that His position was that of a man at the same time that He shewed himself most in contact with the power of God. An angel, said Aquinas, could be anyone who serves God, "Who maketh His angels spirits and his ministers a flaming fire"⁽²⁾ He thought therefore, that the Roman legions could have been Christ's legions of angels, just as later the legions of Titus and Vespasian were servants and therefore angels of God when they destroyed Jerusalem. That Jesus did not ask for help was taken by Aquinas as answer enough to those who say that God can do only what He does, for if Jesus did not ask for the legions for which He could have asked it is clear that He is likewise able to do many things which He does not do.

Of the third way of seeing this incident of the hindering of Peter, Aquinas remarked that although Jesus did not say which Scriptures were to be fulfilled, all the prophets made his

(1) "Et quia videbat eum praesumentem, ideo dicit, Non possum rogare Patrem meum? Et non dicit, Non possum vocare, vel adducere, sed rogare: dicit enim verba hominis, quia orare hominis est." (p.371.)

(2) Ps. 104.4.

meaning more or less clear, and it could be found in the words of Luke "Ought not Christ to have suffered these things and to enter into His glory."⁽¹⁾

For the majority of his ideas Aquinas had relied heavily on the fathers before him. He did not, as usual in his own commentaries, give the whole collection as in the Catena Aurea. He did not for example mention the remark of Rabanus Maurus that the ear of spiritual hearing was restored to believing Jews as well as to Gentiles; perhaps because he thought it unimportant. It is interesting, in view of his care to distinguish between the swords, that he did not mention Hilary's idea that Jesus bids him return his sword into the sheath because He would destroy them by no weapon of man but by the sword of His mouth.

He attributed, in his commentary, the observation that not all those who take the sword sinfully, perish by it, to Augustine, whereas in the Catena it is first attributed to Hilary, an older contemporary of Augustine.

One can certainly not criticise Aquinas for such small omissions and uncertainties; they may or may not be significant.

(1) Luke XXIV.26.

The notable originality in his commentary on this passage appears to be in his effort to systematise and integrate, to divide and subdivide into sections for the sake of clarity. As has been seen however, this can have its dangers. It also appears that he alone noticed that Jesus puts Himself in the position of a man at the moment of revealing His accessibility to all the powers of God.

A Catholic Commentary⁽¹⁾ says that Jesus' rebuke at Peter's blow shows that violence leads to violence, and that it is therefore useless. If the question had been settled as a contest of strength Jesus could have had at His bidding not twelve powerless apostles but 72,000 angels. But Jesus did not make even a show of physical strength because it would have contradicted all the prophecies of a meekly suffering Messiah.

Underlying all Aquinas's elaborations there was perhaps some such assumption as that it should be reasonable for a wicked aggressor to be punished by the sword of the righteous acting in defence, and he sought to shew that this was Jesus' meaning. But however reasonable the assumption it hardly fits the pattern of events, for, as Professor Macgregor says⁽²⁾

(1) p.900

(2) p.25.

Peter's sword was used in defence, and yet Jesus rebuked him and told him to put it away. Professor Macgregor concludes that Jesus meant that any use of the sword, defensive or aggressive, is evil, and that anyone who uses one will 'perish by the sword' and, apart from Augustine's distinction between authorized use of the sword and unauthorized taking of it, Roman Catholic thinkers have never found in this incident any justification for war. They have in fact sought much less to harmonise this incident with other more 'warlike' texts than to bring the latter into line with what is obviously regarded as Jesus' normal pacific teaching and example. They have sought to bring the command to buy swords into line with the command to put one away.

Despite any underlying assumption, much of Aquinas's commentary shares this traditional frame of mind. He did not mention, for example, Augustine's distinction between using and taking the sword, although he included it in the Catena Aurea and he quoted and accepted the distinction in the war articles. In the commentary he sought to show that Jesus' thoughtful non-resistance is a pattern for all Christians. Aquinas did not relate the following of this pattern to the

more general and important principles involved in deciding how far discipleship calls for imitation of Christ or how far the uniqueness of Christ's being led Him to behave at times in a way so unique that ordinary folk could have little hope of truly imitating Him, but he said that Christ meant the incident to be an example of non-resistance for his followers; and by pointing out that Jesus could have prayed for military aid, as a man to God, and yet resisted in view of God's purposes he suggested that this is ~~what~~ a human being in the same position might do. The impression is given that Jesus was throughout acting as a human person and refusing to rely on special spiritual or supernatural physical help.

Even when he tried to describe the threefold nature of the sword he did not really relate any of the 'natures' to just warfare as such. The material sword is the sword of the wicked and the spiritual sword the word of God, neither of which can be justly carried into battle in the shape of a physical weapon.

From his references to Jeremiah and to Titus's sack of Jerusalem, however, it does seem that Aquinas believed that divine use of a material weapon was possible to the sword divinae sententiae. At this point he came closest to Augustine's notion of the

'lawful use' of the sword, although whereas the latter seems to have thought of the lawful authority for its use as a judge or sovereign or the appropriate political authority, Aquinas required for the use of the sword divinae sententiae the authority of God Himself. In his war articles, a just war however requires the authority of 'sovereign or judge or (as a public person) through zeal for justice and by the authority so to speak of God.'

At the arrest of Jesus, however, this authority was not forthcoming, for Jesus must speak with God's authority and that authority forbade armed defence. If ever armed defence had just cause and right intention, it would, presumably, be in some such situation as that in which Jesus was defended by Peter, for Jesus was guilt-free and Peter struck his blow to help the guiltless and not in selfishness. Yet Jesus, speaking with divine authority, told Peter, who was to be His representative on earth, to put up the sword. In the framework of allegorical interpretation, therefore, it seems that as Jesus spoke with God's authority and passed on this authority to Peter, the Christian Church can have no power to permit war but may have authority to forbid it.

The command to put up the sword was quoted in the Summa Theologica ⁽¹⁾ as a preliminary answer to the objections to the idea that clerics should not fight. Aquinas did not there comment on it but the rest of what he said on the subject seems to shew that he believed that Christ, by His words to Peter, meant to forbid absolutely the use of arms to all clerics, whether the use were considered an expression of the sword of God's judgement or an expression of just war in any other sense.

Such a ban, however, was not laid on the laity. To support this hypothesis, Aquinas referred to the distinction between using and taking the sword, suggested by Augustine, ⁽²⁾ who said that Peter's main sin was that he took the sword without authority for using it. According to Augustine therefore, Peter did in fact sin, but God could have given authority, and if He had done so His authority could have justified the use of weapons. To Aquinas then the incident shews that whereas Jesus authorised Peter and the other disciples to take swords, but not to smite with them, so that clerics are forbidden to fight, Jesus by using the word 'take' to mean take unlawfully did not forbid non clerics the lawful use of swords in war authorised by God. ⁽³⁾

(1) See above p.45.

(2) See above p.42.

(3) Catena Aurea pp. 918 - 920.

This kind of interpretation puts too much strain on one small sentence, and especially on the word take. No matter what Augustine and Aquinas made of it, it does not really mean the same thing as 'use unlawfully', and Augustine indeed, said that Jesus gave Peter and the disciples permission to take the sword. Moreover, even if the words which Jesus used could be understood to mean that He forbade unlawful use of the sword, they do not at the same time say anything about or signify approval of any lawful use.

Aquinas also quoted Paul to shew that clerics are not to fight.⁽¹⁾ In his commentary on this passage⁽²⁾ he explained the meanings of St. Paul's war-imagery. As each warrior has arms suited to his rank and type of warfare, so has the Christian. The arms of those who wage war or fight according to the flesh are riches, honours, pleasures and worldly and temporal powers, but 'our arms', said Aquinas, 'are not of this kind for the arms of our militia are not carnal'⁽³⁾ but powerful from God or to the honour of God. Therefore 'we do not fight according to the flesh,'⁽⁴⁾ Nevertheless, said Aquinas,

(1) 2 Corinthians X.4. "For though we walk in the flesh we do not war after the flesh: for the weapons of our warfare are not carnal, but mighty through God, to the pulling down of strongholds.

(2) Commentaria in Omnes D.V. Pauli Apostoli Epistoras, Tomus II. pp. 97-8.

(3) A Catholic Commentary on Holy Scripture stresses that 'carnal' means of human make and strength and mighty in and through God.

(4) Aquinas here identified himself with Paul.

Paul emphasised that spiritual weapons are effective materially. When he said such weapons were effective in 'pulling down strongholds', he meant that they can confound rebels, as God has power 'to pull down and destroy'. Such destruction is aimed at tyrants who seek to protect themselves by cunning wiles against God's will for them.

Paul wrote the words of this text as part of a defence of his own character and authority against the criticisms and taunts of 'false prophets' and their followers in the Christian community at Corinth. By using the quotation to prove that clerics should not fight with material weapons therefore,

Aquinas understood that by his use of the plural pronoun Paul identified himself with all the apostles and clerics, although not with all Christians.

However, a lot hangs on how 'we', which was often used in Paul's Epistles, is interpreted. Moffat, for example, took into account the practice of Hellenistic Greek, and usually replaced the 'we', 'us' 'our' pronouns of the A.V. and R.V. with 'I', 'me' and 'mine'. J.H. Moulton thought the papyri usage so irregular that the right translation was 'a problem for the

exegete, not for the grammarian"; "Paul," he says, "used the first person singular only when he was anxious to make clear that he was speaking of his own personal attitude."⁽¹⁾ As, however, the first person singular is often used in this epistle it would seem that despite Moffat's translation, the use of the plural pronoun in 'our warfare' might mean that Paul was not there speaking of himself alone but of a society to which he belonged.

Right or wrong, therefore, Aquinas's plural interpretation of the pronoun could be defended. If it were right however, it would not necessarily follow that by "we" Paul meant apostles and clerics only rather than Christians as a whole. The writer in A Catholic Commentary, in fact, describes Paul's state of mind at the time of writing this epistle in such a way as to suggest that he meant more than apostles and clerics by the plural pronoun:

St Paul's recent experience (intense misery and the triumphant use of it for good) had stamped on to his mind a new and overwhelming impression of the meaning of the Cross for the Christian and the Apostle, the power in and through suffering, and this thought is so dominant throughout the epistle that his two immediate purposes are not only seen in its light, but are sometimes eclipsed by it".⁽²⁾

(1) Grammar of New Testament Greek, l.p.87, quoted by Strachan: The Moffatt New Testament Commentary on the Second Epistle of Paul to the Corinthians, p.XXXV.

(2) p.1099.

More than once the writer stresses his belief that throughout this Epistle Paul meant his descriptions of his sufferings and way of life as an apostle for all Christians.⁽¹⁾ It is, moreover, quite clear from other Epistles⁽²⁾ that Paul's "we" was meant very likely to cover all Christians.

Aquinas's understanding of Paul's use of the pronoun "we" in this Epistle, therefore, has not been widely followed even by Roman Catholics. If he was wrong, however, it must be taken that a right interpretation according to his allegory of the incident would shew that Paul forbade warfare to all Christians.

Both in his commentary on this passage and in his reference to the priests who blew the sacred rams' horn trumpets at Jericho⁽³⁾ Aquinas affirmed nevertheless that clerics can contribute spiritually and most effectively to a war effort. Their contributions were not, of course, physically warlike in themselves, but they could have frightful physical effects. They brought down rebels and tyrants, for example, and at Jericho the final blasts on the priests' rams' horns, helped by a big shout, brought down

(1) "... It is true that Paul is speaking more particularly of the sufferings of an apostle, but the principle is in fact the foundation of all Christians sanctity. This theme appears at the beginning and remains with us to the end... It is not the events themselves but their inner meaning, the eternal truths behind them, that fill St. Paul's mind, and above all the truth that God's power operates through human weakness and suffering: this appears in every Christian life but most startlingly in that of the apostles. This is the grand law of strength-in-weakness, the theme which dominates the whole epistle..." (A Catholic Commentary on Holy Scripture) p.1101.

(2) See for example Philippians III.15-17.. Ephesians VI.10-12.. Colossians III.4.. Ephesians II.17-18.

(3) See above p.46.

the walls.⁽¹⁾ A Catholic Commentary accepts this causal interpretation, and suggests that the blasts and the shout and the marching around the walls may have been part of the ritual of the ban or herem. The New Testament, it points out, promises a trumpet blast for the victory of the blessed and the end of the wicked on the judgment day.

Most modern Protestant thinkers would not allow that such dire physical destruction as befell Jericho was caused by spiritual weapons. The sounding of the horns, many of them hold, was a war cry which coincided with an earthquake, and the cause of the falling down of the walls was the earthquake rather than the hornblasts. Some hold that the marching itself may have caused the foundations to shake and the walls to tumble. When Paul wrote of pulling down strongholds, therefore, Moffatt took him to mean the overturning of theories which hindered God's truth, and translated in a way which brings out this meaning.⁽²⁾

- (1) The horns were the Hebrew trumpets of jubilee and used on joyful occasions! Such instruments were literally "arms" in the Holy War, in which unusual weapons were used to demonstrate complete dependence on God. Aquinas should not have said, therefore, that the priests went to the front only to blow trumpets and that it is an abuse of their privilege to take up arms themselves.
- (2) "... the weapons of my warfare are not weapons of the flesh, but divinely strong to demolish fortresses - I demolish theories and any rampart thrown up to resist the knowledge of God, I take every project prisoner to make it obey Christ, I am prepared to court-martial anyone who remains insubordinate, once your submission is complete..." (II. Corinthians, X. 4-6.)

The warfare of which Paul wrote, in fact, is widely thought to be wholly of the sphere of mind and spirit.⁽¹⁾ it cannot be gainsaid, however, that many Protestant teachers and preachers have taught and preached as though they believed that their spiritual inspirations and exhortations helped to bring physical and material victory to their own side.

The difference between the two types of warfare was brought out more fully in Aquinas's commentary on 2 Timothy II.4,⁽²⁾ a passage which he also used to shew that warlike duties, like commercial enterprises, unsettle the mind and are, therefore, forbidden to clerics. Physical warfare, he said, seeks to defeat the enemy, and to this end all who take part in it have to give up such distractions as commerce and law. Here Aquinas seemed to assume that war is a calling in the same way as the law or the Church, and overlooked the fact that as people of different callings fought in wars they must have been moved by the urgency of certain situations rather than by a sense of calling. Spiritual warfare, on the other hand, seeks the defeat of God's enemies, and to this end those who take part in it have to give up all secular distractions such as trade, commerce and the physical

(1) e.g. Strachan in The Moffatt New Testament Commentary on II Corinthians, pp. 10-11.

(2) Tomus 3. p.126.

warfare to which these, in the course of things, have to be sacrificed. For, said Aquinas:

"... the sollicitudes of this world
suffocate the word..." (1)

There is no sign, however, that Aquinas took the fact that the Epistle was addressed to Timothy to mean that enlistment for spiritual warfare was open only to clerics or that lay Christians could not fill at least the non-commissioned ranks, as they might be called, as soldiers of Christ in the legions of the spirit. He pointed out that the writer of the Epistle had used the words "entangleth himself" to warn soldiers of Christ that if they entangled themselves in distracting secular affairs they would displease God, but he also noted that Paul had somewhat justified their taking part in the ordinary entanglements arising from office, duty or responsibility. (2)

The extent to which this latter kind of entanglement can be justified was not settled and Aquinas conveyed the impression that it was to be tolerated rather than recommended. If, therefore, as presumably they must, "soldiers of Christ" include "professional clerics," the latter were rather oddly forbidden to entangle

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- (1) "... quia sollicitudo huius seculi suffocat verbum..." - ibid.
 (2) "... I commend unto you Phoebe our sister, which is a servant of the church which is at Cenchrea: that ye receive her in the Lord, as becometh saints, and that ye assist her in whatsoever business she hath need of you..." Romans XVI. 1 - 2

themselves in certain parts of the business of being soldiers of Christ whereas the business of being soldiers of Christ was allowed to entangle them on the ground that they were "professionals". As this latter entanglement was tolerated, however, rather than recommended, it would seem that such "professionals," because of the needs of their calling, might be led to act in ways which fall short of the highest Christian ideal laid down for soldiers of Christ.

In the war articles Aquinas went further and tried to set limits to the extent to which clerics may be entangled in, or may entangle themselves in, physical warfare. The wolf, the pillager and the oppressor he should withstand with all the might of prayer and excommunication, and he should give all spiritual help and encouragement to those who withstand them physically, but he should not fight. In war, therefore, a cleric's calling both enables him to become entangled in certain worldly affairs in which, according to Aquinas' commentary, no soldier of Christ should entangle himself, and at the same time withholds him from certain deeds, such as fighting, which, presumably, Aquinas thought a kind of self entanglement.

But if a cleric's vocation allows him to be entangled

in general in things otherwise forbidden him and yet forbids him becoming entangled in certain of those things, the criterion of what he can and cannot be entangled in must be drawn from some higher principle. For clerics such a principle would be implicated, presumably, in the vocation. To Aquinas, it would seem, it was that aspect of the priestly vocation expressed in the ministering of the Sacraments of the Body and Blood.⁽¹⁾ But he apparently felt no similar incongruity and unseemliness at the notion of the going forth to war of those to whom the Sacraments had been ministered. The awkwardness of the distinction arises mainly from the way Aquinas handled the phrase "entangleth himself." A modern Roman Catholic would have the passage mean that a soldier of Christ should be unwilling to be entangled in worldly affairs⁽²⁾ and such an interpretation makes Aquinas's seem at least over elaborate. If a cleric helps the just he can hardly keep himself free of the entangling cares of the world which Aquinas, in his commentary, says are forbidden to soldiers of Christ, and once it is allowed that spiritual help and worldly care may be

(1) "... As often as you shall eat this bread and drink the chalice, you shall show the death of the Lord until he come..." I Corinthians
 (2) Bible translated by R.A.Knox. Xl.26.

the same thing it would follow that where they are, the cleric, as a soldier of Christ, takes a spiritual part in warfare on the grounds of his office. He would be justified, therefore, as cleric and soldier of Christ, in doing certain things because of his office, but not in doing these same things as arising naturally from his calling as a soldier of Christ. It would seem that in going to war spiritually, therefore, clerics act as though the less important were more important than the more important.

On the other hand, if it were allowed that a cleric could self-entangle himself spiritually in physical warfare, Aquinas's grounds for declaring it "altogether incompatible" for him to take part in it physically must be questionable, as the motive and end of the spiritual and physical warfares would be the same. Aquinas seems to have wanted to shew not that clerics should not go to war but that their calling allowed them to go to war only in certain ways. In doing so he seems to have been unaware that it is just because a cleric's calling is Christianity that it is impossible for him to separate a vocational justification from a Christian one, and so he states nevertheless that in practice the ways of fighting for clerics and laity are poles apart. Whereas clerics are to encourage

the warlike efforts of others, it is absolutely irregular for clerics themselves to shed blood. Rather than shed blood, they must allow their own blood to be shed. Aquinas did not say it was sinful for a cleric to shed blood. Instead he used the words irregular, and altogether unlawful. Just what fine line stands ~~between~~ these and sinful he did not make clear. But it does seem clear that the metaphorical use of the terms of warfare to describe spiritual things leads to a cleric being forbidden to be a soldier of Christ in one sense simply because he is a soldier of Christ in another. And although in his commentary Aquinas contrasted the ends of spiritual and physical warfare, in the war articles his reply to the objection that clerics so encourage and permit physical warfare that there can be no purpose in their holding practically aloof from it allows that in the eyes of the faithful the end of just wars is the same as the end of clerics, that is, the divine spiritual good. And, indeed, the general drift of his meaning rather suggests that it is in order for clerics to advise others to fight and the advising is more meritorious than the fighting.

When in the war articles Aquinas quoted Paul's opinion

that to egg on someone else to do things comes to the same thing as doing them oneself,⁽¹⁾ therefore, it might have been expected that it would occur to him that the advisers and strikers were about the same business and even that, especially in the light of Paul's words, there might be something sinful in the business of war. However, he put the quotation into one of the objections to his own belief that clerics should not fight, and instead of using it to suggest that clerics share the sin of warfare he suggested rather that, as they share responsibility for it, they should also share its rewards and privileges. But in his own commentary⁽²⁾ Aquinas agreed that one who consents to or condones a bad deed and one who commits it share the sin. Consent he thought expressed by praise, help, favour, or even neglecting the chance of correcting a sinner. This last was especially sinful if it were done by one whose calling took in the correcting of sinners. Death he believed the fitting reward of sin and the death of a sinner the worst possible kind of death.

Anyone, indeed, who fell into the sin of consent or

(1) "... They who do such things are worthy of death and not only they that do them but they also that consent to them that do them..." Romans I.32.

(2) Tomus I pp. 42-3.

condonation would be in the direst straits. A Catholic Commentary says that condonation of the sins listed by Paul is a further sin which could be added to the list, but which Paul set apart as "the climax of all the depravity mentioned before." The writer thinks Paul did not exaggerate, "for to abet and to applaud evil is doing the devil's own work."⁽¹⁾

It is true that Paul did not put warfare into his list,⁽²⁾ but after comparing it with some of the things he did put in it might seem not unreasonable to ascribe its omission to editorial oversight rather than to absence of evidence of suitable qualifications. And unless the grounds of his statements can be shewn to be more sound, Aquinas, by encouraging clerics to take part in warfare themselves spiritually and to encourage others to fight physically, may seem at times to have done precisely what the text condemns. This is a serious matter. In Aquinas's own view, the sinful use of the sword unrepented for is punished with eternal damnation.

But if clerics were too holy for the less meritorious

(1) p.1051.

(2) Unrighteousness, fornication, wickedness, covetousness, malice, envy, murder, debate, deceit, malignity, whispering, backbiting, hating God, spitefulness, pride, boasting, inventing of evils, disobedience to parents, having no understanding, breaking covenant, faithlessness, lacking natural affection, implacability and lacking mercy.

work of fighting physically, the same was not true of holy days. Aquinas thought that the Maccabees' decision to fight on a Sabbath was meant to teach that such warfare had been blessed, although it seems far more likely that on this occasion a natural wish for survival overruled religious scruples. Not to safeguard the commonweal of the faithful on such days, said Aquinas, was to tempt God. Jesus healed on the Sabbath:⁽¹⁾

"... Hence physicians may lawfully attend to their patients on holy days. Yet much more reason is there for safeguarding the commonweal..."⁽²⁾

It is perhaps surprising, therefore, that clerics are forbidden to take part wholeheartedly, or even to take a leading part, in such an important task.

In deed, in spite of the fact that when clerics were allowed to take part in war spiritually they have had the highest methods and aims, they were nevertheless never allowed to authorise wars. In the war articles Aquinas quoted Romans XIII.4. to shew that the responsibility for doing this must lie with the sovereign or person or persons in charge of kingdom, province or city.

(1) John VII. 23.

(2) S.T. II.II. Q.40. Art. 4. See above p.49

In his commentary⁽¹⁾ on this passage he accepted without question Paul's statement that the ruler has the right to execute God's judgment, and he added that Paul spoke according to the practice of princes who carry the instruments of punishment as their insignia of office, such as bundles of sticks for scourging and axes and swords for death. It was the duty of those in authority to lay such punishments on evildoers, and Aquinas referred to a number of Old Testament texts to shew that those in authority who were zealous for justice and wrought God's vengeance on the wicked acted not only according to law, but in a manner worthy of all praise and rewards for themselves and their armies.⁽²⁾ Rather surprisingly, the text Aquinas quoted was from Psalm LXXXII.⁽³⁾ The verse he quoted is addressed to rulers and exhorts them to do justice, but the psalm as a whole does not guarantee their goodness or integrity of judgement, and the warnings it heaps upon them must mean that they had been rather a bad lot. For besides being advised to act rightly, they are reminded that God is above them, rebuked for sins and backslidings and threatened with punishment. The psalmist even prays for their punishment and sings:

(1) Tomus I. p.242.

(2) "There will be a reward for his army, and for his labour by which he has served me against her..." (Ezek XXIX)
 "... Flee from the face of the sword because the sword is the avenger of evils..." (Job XIX)

(3) Psalms LXXXII.4.

But I, I have said, ye are Gods,
Yes, all of you sons of the Highest.

But yet like to men ye shall die
And shall fall like to one of the nobles. (1)

So whatever their divine authority, the nobles are likely to die the death of the wicked.

A Catholic Commentary (2) says that in Romans XIII.4. Paul insisted that submission and obedience to the ruling government is demanded by divine law. "Leaving all questions of natural law aside," no government, he thought, could obtain and retain power without God's will. To disobey the government, therefore, is to disobey a divinely appointed authority, and so all governments, however bad or tyrannical, must be respected and obeyed. Aquinas is quoted as both agreeing with this and making a different statement on the subject. The writer agrees with Paul's description of the ideal king and government (3) as a description of government as it should be, and that the laws of such a government are moral laws which should be obeyed for God's sake.

Yet, says A Catholic Commentary, by natural law, as long as

(1) vv. 6 & 7. The translation is from the unprinted mss of William Barnes. He added the footnote to v.7: "...Nobles" - or Wicked. The word "Princes" of our version does not seem a likely reading in a parallel with "men" in the former arm of the twin thought. Barnes probably had in mind the colloquial expression "one of the wicked" - than whom Falstaff at one time claimed to be little better.

(2) pp. 1074 - 5.

(3) Romans. XIII.3-4.

the means are compatible with the moral law, every citizen has the right to resist injustice, even when the injustice is done in the name of government. It is allowed that in many cases conscience has to be the final arbiter for the individual and that no Christian is bound to obey government orders when they go against the divine law, or support state against Church. Here Paul did not mean to support one type of government against another, but simply to justify the divine ordination of government in general. Even a pagan government, he thought, is "power on the side of the good,"⁽¹⁾ and the early Church stood by this principle even during the persecutions. Nor did Paul mean that all state laws in general are right, and A Catholic Commentary, therefore, says that it must be allowed that for Paul not all state laws have power to bind a Christian conscience. At the same time, however, it says that duty to the government is both a duty imposed by God and a precept of the moral law.

Such an understanding of Paul really amounts to allowing that whereas, in general, government, on the strength of its appointment and abstract ideals, shares in God's majesty and

(1) Romans XIII. 3-4.

divinity, its particular practices often have to be resisted in ~~obedience to~~ the natural moral law and the individual conscience. It is difficult enough to separate the judgment of an institution from judgment of those who run it, but it is quite unreasonable to try to justify the latter on the grounds that they ought to be fulfilling an ideal which they ought to be aiming at even if they have never heard of it.

Nevertheless, Paul has often been made to teach uncritical Christian subservience to the state, and this teaching has often been stretched to justify the state's right to conscript citizens for the execution of war. Paul wrote before the persecutions began⁽¹⁾ and this Epistle was addressed to Christians in Rome, the seat of the finest kind of civil government known to the ancient world. Moreover, as Professor Macgregor says, Paul himself knew the Roman legions as a police force bound to the keeping of law and order, and

"... It was thus that Paul knew the Roman soldier, and doubtless would approve of him..." (2)

Roman militarism, on the other hand, was both aggressive and ruthless and anything but just in the Christian sense, as Christians of Paul's time were soon to learn, and so on these

(1) See above p.10.

(2) The New Testament Basis of Pacifism. p.85.

grounds Professor Macgregor thinks that by justifying the ruler's right to the sword Paul had in mind the keeping of law and order, of which he was aware, and not field warfare, of which he knew nothing.⁽¹⁾ This distinction is in itself worthwhile, but that it makes for a clearer understanding of the work of the legions may be doubted. The same legionaries went on to the battlefield as on the beat, and it is, therefore, very difficult to know when each becomes the other and whether the different aspects of their activities are separated by the qualities or by the numbers involved.

But the suggestion that Paul had in mind the keeping of civil law and order does seem to add weight to the often-made remark that these "political" teachings⁽²⁾ are placed between two calls for Christian love. From this placing it has been thought that Paul meant to say that politics should be conducted with the love which loves the enemy, and therefore includes non-resistance, and the love which works no ill on a neighbour, and therefore fulfils the Law. Politics, therefore, should be conducted in the spirit of Christian love, for:

(1) R.A.Knox's translation of this passage assigns responsibility for wielding the sword to the "magistrate."

(2) Romans XIII. 1 - 7.

"... Dearly beloved, avenge not yourselves, but rather give place unto wrath: for it is written, "Vengeance is mine, I will repay," saith the Lord..." (1)

Barth's exegesis of Romans XIII 1 - 7 amounts to revealing it as a summary of the undifferentiated and unrelieved despair of our sin-permeated lives. Distinctions between government and police force seem irrelevant if the sword is the sword of God which He wields both as sword of government and as sword of revolution. The wrath of God meets all human endeavours, for, "after all, we are men,"⁽²⁾ and therefore sinners. War and peace become almost indistinguishable in the ominous shadow of the sword of God's judgment held over the wicked.

Aquinas referred to Romans XII.19 briefly in his reply to the objection that warfare contradicts the teaching of non-resistance in the New Testament. He himself followed Augustine's statement that such teaching should be borne in readiness of mind, but that it need not be followed in all circumstances. In his own commentary⁽³⁾ he tried to set out his meaning at greater length. He linked the passage with

(1) Romans XII.19. The prophecy quoted is from Deuteronomy XXXII.35.

(2) Barth: The Epistle to the Romans, p.490

(3) Tomus I. p.237.

the servant songs,⁽¹⁾ which predict a suffering Messiah, and with Jesus' command to turn the other cheek, but added Augustine's remark that, as Jesus Himself, when struck, did not turn his other cheek, the command should be followed in spirit but need not be followed literally. Just as Jesus offered up his whole body for the true good of man, so this command aims at the same truth. Augustine argued that this good may include correction as well as peace. Nevertheless, these precepts should be ever before us so that they become part of the will and prevent us returning evil for evil.

Paul, said Aquinas, saw non-resistance as part of the general commitment to God, Who can judge, defend and avenge, and Who openly made this the ground of His command. Aquinas also quoted Peter's words about "Throwing all your care upon him, for he has care of you."⁽²⁾ Nevertheless, Aquinas thought such out and out dependence on God called for only when no earthly ministers of justice were at hand. Indeed, as long as there is no hatred behind it, recourse to an earthly judge or authorised opponent of aggression opens the way to God's judgment and wrath "whose ministers princes are."

(1) Isaiah. L and LIII.

(2) 1 Peter. V.7.

There is no doubt that in the war articles Aquinas professed to give the answer of Christian revelation to the moral problem of war. In very few pages twentyone Biblical quotations - seven from the Old Testament and fourteen from the New Testament - are referred to. There are also twentytwo other quotations, all of them, with exception of one from Aristotle and an indirect quotation from the Book of Stratagems by Frontinus, from Christian writers, and most of them from Augustine. Considering the length of the war articles the number of texts quoted is large, but there are many other relevant texts which Aquinas ignored. He did not refer to any saying of Jesus in which war was mentioned, nor did he remark that Jesus said nothing directly about the morality of warfare. This unawareness may account for his not hesitating to pronounce a Christian answer with all the tones of certainty even on such little evidence. In fact, the only words of Jesus he actually quoted in his own answers justifying war are "Give not that which is holy to the dogs" and this is only used by way of analogy. He referred also, indirectly, to the peace which Jesus came to bring. All the other sayings of Jesus which he quoted as part of the objections, and therefore on the side of non-participation, he contrived to his own satisfaction to reconcile with war.

This he did by applying a particular exegesis of the passage in question or by quoting the authority of Paul or the Old Testament.

His exegesis in his commentaries shows great learning, and all the insight and understanding expected from such a scholar. At times it is too allegorical, oversubtle or literal, but this was simply a reflection of the times in which he lived. The Catena Aurea reveals his width of knowledge, the commentaries the independence of mind with which he applied it. In general it would seem fair to say that in the Catena Aurea Augustine stands out as the only commentator who made a consistent effort to reconcile Jesus' pacific and non-resistant teaching with the justice of war. In his commentaries Aquinas did not make a point of following Augustine nearly so directly as in the war articles, in which he followed him almost slavishly. He applied Biblical texts with what often amounts to carelessness and unimaginative rationalism. (1)

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- (1) There appear also to be flaws of reasoning in the war articles, apart, more or less, from exegesis. To kill a man who is using the sword unlawfully must be, according to Aquinas's belief, to despatch him to his eternal punishment, (though if it is done slowly enough the victim may have time to repent!) Yet war is justified on the ground, amongst other grounds, that nothing is more hopeless than happiness for sinners. Not everyone in battle can escape with wounds and time to repent. Aquinas's reply to the objection that since warlike exercises and tournaments are forbidden by the Church so should war be also, is that only tournaments which end in plunder and slaughter are forbidden. This is a contradictory answer. Aquinas's ethical distinction between the positive lie and negative deceit is in itself rather dubious. He says that it is perfectly right for someone to be deceived by what we say and do because we do not declare our full purpose and meaning to him. The righteousness of this must depend, at least, on the circumstances, and when not only our silence but our deliberately deceitful action is involved, this would seem too positive to be justified on the ground that we are only withholding the truth. This point has to be considered particularly in relation to Joshua's conduct at Ai.-Joshua VIII.4.

Aquinas admitted that Jesus taught non-resistance and love of the enemy, but it is clear that he thought this teaching could not be taken at its face value, and that it was too "vague", "general", or "simple" to be understood properly. And so he elaborated and analysed it, and surrounded it with conditions.⁽¹⁾ In fact, perhaps he made it fit more comfortably into the consciences and circumstances of human beings. Such a process is quite understandable, but it runs into many dangers. It was such conditioning of these absolute demands of Jesus which made it possible for him to adopt his own position on the question of war.

The main line drawn in Aquinas's thought between Christian warfare and non-resistance is the same as that which he drew between Christians and clerics, and between private ethics and public ethics. But from the texts considered no real basis for such a distinction can be found in the teaching of Jesus or of the New Testament, except, perhaps by implication, from Romans XIII.4. But all these distinctions were applied by Aquinas within the sphere of Christian and not of secular morality, and in the war articles he was not talking about the justice of war as a secular

(1) Literal love of the heart is obligatory to all, but only in cases of necessity is active love demanded. We need not love other people as individuals, though we can love them as men capable of happiness. We need not shew the effects and signs of inward love to our enemies as individuals, but we must shew the outward signs and effects of our general love.- See ST. II.II.Q. XXV. Art. VIII. IX.

activity but as an activity in which Christians may take part.

It is obvious, therefore, that we must look into Aquinas's ethical and political thought for further understanding of how he came to make these moral distinctions between individual and public, and lay and clerical morality. So far they appear to have no basis in revelation, unless certain interpretations of Romans XIII are accepted. Aquinas, however applied them to revelation in such a way as to satisfy himself that he had in no way distorted its spirit and meaning. But the present examination of his use of revelation suggests that he might have done so. Whether in fact he did so is a matter of importance, as the behaviour required by the two moralities appear very different.

No judgment can be made without research into other reaches of Aquinas's thought and without considering some of the ethical and political matters involved.

CHAPTER FOUR

SUBJECTIVE JUSTICE AND OBJECTIVE JUSTICE.

The most controversial issue which has arisen in connection with Aquinas's doctrine of the just war is that of the importance, for Aquinas and other medieval writers, of a subjective fault in the enemy, and of a subjectively right intention in the just side. There are two opposing schools of thought on this issue, one holding that subjective justice and injustice are not vital, and that Aquinas, if he had been aware of the distinction, would have thought so too, the other maintaining that subjective justice and injustice are vital, and that Aquinas and most other medieval writers most certainly held this view.

In this distinction between subjective and objective justice, a man is regarded as being subjectively just if he is acting innocently or righteously according to his own honest conscience, inadequate, ignorant or mistaken as it may be, and objectively just if his action, as judged, apparently, by a perfect and impartial arbiter, co-operates, whatever the intentions inspiring it, with the best possible opportunities for order and harmony that the moment presents. A man is objectively unjust or at fault if his action, whether in isolation or in co-operation with others, is, whatever his beliefs or intentions, in fact wrong or unfair, in that it is causing injustice, distress or harm to others. Regout, while

discussing the importance of this distinction in the doctrine of the just war, first gives a simple illustration of how it may occur in ordinary life, and it is interesting to note that although he recognises the likelihood of there being degrees of justice and injustice in the same act, he is prepared to class anything less than absolute innocence as subjective fault or guilt. In effect, therefore, he makes subjective justice synonymous with innocence.⁽¹⁾ The example he gives is of the wrongful retention of someone else's goods. It is possible that the 'thief' is under the misapprehension that they truly belong to him, and in this case, he is only objectively unjust. On the other hand, if he realises his fault, or is in any degree culpable because of negligence or simplicity of mind, he is both objectively and subjectively unjust. A consequence of this distinction is that where one's adversary is both subjectively and objectively unjust, one has the right and indeed the duty to punish as well as to recover one's goods. Where there is only an objective fault, punishment is not permissible. In the first case the culpability of the wrongdoer is the first concern; society itself is menaced, and the ideas of punishment and of

(1) La Doctrine de la Guerre Juste, pp. 25 - 30.

vindictive justice predominate. In the second case, the loss suffered by the individual is the primary concern, and commutative justice demands that the goods should be restored to him.

He goes on to say that in 'recuperation' the emphasis is on the thing which should be restored to its owner, and this is governed by commutative justice, in which the interest of the person who has been harmed, predominates.⁽¹⁾ In punishment, the emphasis is on the person of the criminal. Here the general interest predominates, and vindictive justice is applicable. In every case goods should be restored to the rightful owner, but punishment is only applicable where there is culpability. However, the act of restoration, even when it involves violence, and even when the wrongdoer is culpable and guilty, need not in itself have the character of punishment.

The significance of this distinction in the doctrine of the just war is that certain modern writers, such as Vanderpol and Stratmann, uphold the theory that the medieval thinkers were right in implying or stating that every just war is necessarily punitive in character, and therefore that a true subjective injustice or guilt in the enemy is essential for a war to be just, whereas most break

(1) p.33

completely away from this fundamental principle by deciding that in certain circumstances a purely objective fault legitimises war, which thereby loses its punitive character, though not its justice.

Regout allows that there is, for various reasons, a difference of emphasis between medieval and later writers,⁽¹⁾ but says that since the actual conceptions of subjective and objective justice were not made relevant to war before Vitoria in the sixteenth century,⁽²⁾ the medieval writers simply did not consider this question. He therefore does not hold that the difference of opinion was so radical as some would make it, but that it appears to be deep because of an omission on the part of the medieval writers explicitly to consider such a difference. There is no more opposition between later and earlier opinions than exists between a tree and its roots. It simply did not occur to the medieval writers to consider the possibility of a 'fault' being subjectively just; what looked like a fault they called a fault. But even they made a distinction between a 'war of recuperation' and a 'war of punishment', and this, Regout thinks, is the beginning of the true distinction made explicit much later by Vitoria and

(1) pp. 25 - 29.

(2) pp. 165 & 300.

others, who use it in determining that a war against those only objectively unjust is a war of recuperation, and a war against those subjectively unjust is a war of punishment. Regout seems to imply that since a war of recuperation is, before the twentieth century, universally admitted, the fundamental idea behind the just war theory is the maintenance of objective right and justice, whether or not the moral element be taken into account.

The reason for attributing to medieval writers such a disproportionate emphasis on both the corresponding elements of fault and punishment in a just war Regout thinks is due to one or two factors. The first is the pacifistic tendencies of Vanderpol, who is the chief misinterpreter in his eyes. The second is that the word 'vindicare' does not necessarily imply vengeance or the act of punishing, but can be used to refer to a quite impersonal act of reorganising an unjust into a just situation. He further makes what one cannot help thinking a somewhat over-ingenuous suggestion, that the stress on punishment in the medieval writers was not due to its importance in their eyes, but to some uncertainty about its necessity or rightness. This doubt led to a greater discussion and consideration

of it than of the other reasons for war - defence and reparation- which were more generally accepted.

Perhaps the soundest explanation given by Regout, however, is that the medieval writers were considering not exceptional cases but normal average wars, and the occasions where subjective justice is simultaneous with an objective fault are rare. This indeed suggests that there is an air of unreal abstraction about the whole discussion. Finally Regout argues that the term 'guerre offensive' also made for misunderstanding. The later writers who talk of a war whose just cause lies in a merely objective fault avoid the use of the term 'offensive war' because traditionally this is associated with full penal rights which are denied in a 'war of mere recuperation'. Vitoria reserved this term for a war of punishment. Molina was careful to qualify it and spoke of an 'offensive war of reparation, with limited rights, excluding all punishment'.⁽¹⁾ The medieval authors, however, used this term 'offensive war' indiscriminately, or rather with the emphasis on its distinction from a defensive war, rather than on its punitive character, and Regout thinks that Vanderpol is misled if he

(1) p. 302.

interprets their use of it with this stress in mind.

It is of course significant (as Regout has already noted on behalf of Vanderpol) that both Regout and Vanderpol interpret the original doctrines to agree with their own personal convictions. Regout believes that an objective fault is a sufficient justification for war, Vanderpol does not.

Regout thinks that Aquinas's true attitude might be found by examining other sections of his work; he stresses that for Aquinas a punitive war did necessitate culpability in the adversary and points out that Aquinas was unusual in making the culpability of the enemy, and not merely the act of injustice or the harm caused by it, the cause of such a war. This culpability is certainly not merely internal but extends to its manifestation in action, but to Aquinas the notion was predominantly subjective. This however does not mean that Aquinas would condemn a war whose motive was not to punish but solely to right an objective fault, or to alter an unjust situation. It might at first sight seem that war is such a grave evil for Aquinas that it could be justified only as a punishment. On the other hand a war of

defence is justifiable quite apart from culpability or punishment. The main cause of a war of aggression, the disturbance of prosperity, order and the tranquillity of the country or community, would be occasioned as much by an objective as by a subjective fault, and it is to restore this order - ut suum locum et gradum teneat unusquodque"⁽¹⁾ - that war is mainly justified.

Regout states that Aquinas defined justice primarily as "ius suum unicuique tribuere",⁽²⁾ and concludes that since respect for order and justice is one of the most characteristic traits of the harmonious spirit of Aquinas, he would have agreed that an objective fault should justify war.⁽³⁾

It will be remembered⁽⁴⁾ that Mgr de Solages complains that Aquinas treated the whole question of war too much as a subjective, individual moral problem whereas it is truly a matter of social and objective justice, and of natural law.

Vanderpol emphasises that only a punitive war, implying a serious moral fault on the part of the enemy, is ever justified.

(1) Contra Gentiles. lib.III.cap.128.

(2) S.T.II.II.Q.58. Art.1.

(3) pp.90 - 93.

(4) See above, pp.50-51.

He has no doubt that this was also the opinion of Aquinas and the other medieval writers. It is as the minister of God that the king gives authority for a war to be fought as punishment and for a definite crime or wrong. It is only this which gives him any right to judge or to condemn, and it is the main requirement for a just war. (1)

Stratmann also emphasises that for Aquinas, as for Augustine, moral guilt in the enemy is the only just cause of war, and this he supports by quotations from both. (2) He links this condition with St. Paul's teaching on the right of the ruler to administer God's vengeance by following Vanderpol's interpretation of it as covering only punishment of evil. The ruler has no power to act against those who have not sinned. Stratmann regards the idea of a wrong or injustice which is not accompanied by moral guilt as 'a most doubtful thing', and he judges that later prevalent.

(1) Vanderpol: La Doctrine Scolastique du Droit de Guerre p.251

(2) "Ut scilicet illi, qui impugnantur, propter aliquam culpam impugnationem mereantur." Aquinas also quotes Augustine in Lib. Qualst, VI.10. when he defines a just war as 'the avenging of injustice,' when a State or town is to be punished because its inhabitants have been unjust or have neglected rightful restitution.

"For the wise 'the just and the pious' it is the injustice of the opponent's cause which makes a just war" (De civ. Dei. XIX.7.)

"In a just war the other side is fighting on the side of sin" (De civ. Dei. XIX.15.)

"The good, if they are really good, do not fight against the good. Those who fight are either the bad against the bad, or the bad against the good, so never good against good, never the defenders of justice, against the defenders of justice. (De civ. Dei. XIV.5.) (Stratmann, pp.59 - 62.)

(3) Stratmann. The Church and War, p.64.

thinking which legitimised it, as a matter of commutative justice, as a cause of war, as a departure from 'the more perfect teaching of St. Augustine and Aquinas,'⁽¹⁾ He himself strictly follows that teaching and holds it to mean that a war can only be just when the guilt of the enemy is absolutely proved and is not merely unconscious or objective. To declare war on those who are ignorant of even a real guilt is forbidden by the law of nature; to declare war against a purely material fault is to create greater injustice, though other means than war may be allowed to deal with it. This insistence on the necessity of certain moral guilt means to Stratmann that a just war of aggression is hardly possible. But if moral guilt is assured then action against it involves punishment which, to be just, must 'fit the crime'.

Stratmann further claims that Vitoria belongs to the School of Augustine and Aquinas when he rules that to be just a war must benefit the whole world of Christendom. This consideration for the community, rather than for the individual or for individual states, he says characterises the medieval as opposed to the modern perspective on the problem. He discusses what might be the Thomist view as to the possibility of each side having a just cause of war, and recognises

(1) p.64.

that the Thomists do not acknowledge a war to be just on both sides, but he thinks that this does not mean that they would not acknowledge a just cause of war in either side, and that in such doubtful cases would presumably rule that neither side could fight a just war against the other. He investigates further the possibility of discovering or achieving an objective judgement of this moral guilt and innocence of the two sides.

Quite consistently, Regout, Mgr de Solages and other writers who disregard the importance of subjective injustice in the enemy are also indifferent to the condition of the right intention. If war is an impersonal objective adjustment of a situation, the moral state and intentions of those on either side are irrelevant. Nevertheless, in order to discover what the medieval thinkers thought of the matter, some consideration has to be paid to their writings.

Speaking generally of the traditional doctrine, Regout numbers only two main conditions, a just cause of war and the authority of the prince.⁽¹⁾ Referring to the third condition, that of a right intention, he explains that it does not affect the legality of a

(1) p.23.

war. If not fulfilled it does not render an otherwise just war unjust, and being so closely connected with it it has gradually become associated not so much with the justification of war itself but with the way in which war is fought. Since the sixteenth century it has increasingly lapsed into insignificance and is of value only in measuring the culpability of warfare, which is quite unconnected with its justice.

Regout gives an explanation of why some writers have regarded a right intention as important. It is that they have treated the question of warfare - apparently wrongly- as moralists or theologians, and that they have given the word 'justice' far too exalted and broad a meaning by identifying it with honesty and goodness, whereas its proper and normal meaning is strictly limited to fair dealings among human beings.⁽¹⁾

Speaking more particularly of Aquinas, Regout points out that all the conditions, including that of the right intention, refer in any case only to a war of aggression. Aquinas, it is true, does not make any distinction between aggressive and defensive war, but that

(1) pp.23 - 4.

self-defence was an unconditional right for him is proved by his acceptance of the idea that one can respond to violence with violence.⁽¹⁾ Even for an aggressive war, Aquinas's condition of a right intention is, for Regout, of least importance. And he claims that its absence does not affect the legitimacy of war in such a way as to suggest that this was the opinion of Aquinas also.⁽²⁾

M^r de Solages also treats Aquinas's third condition as of no importance,⁽³⁾ and he connects the unimportance of the right intention with the reason traditionally accepted for the unimportance of subjective injustice in the enemy, that is, the objectivity of the justice of war. But although he himself does not think that subjective morality is important, he confirms, and indeed complains as has been already noted,⁽⁴⁾ that it was preeminent for Aquinas, who was not considering this question as one of natural law or of politics, but as one of individual morality.

Thinkers who stress the importance of moral guilt in the enemy connect it with the importance of a right intention. A

(1) S.T. 11.11. qu.64. art. 7 in corp.

(2) p.81.

(3) M^r de Solages: La Theologie de la Guerre Juste, p.10

(4) See above, p.179 and pp.50-51.

man cannot have a right intention unless his cause is just; and if the prince does not understand his role as that of an administrator of God's justice and vengeance he cannot have the single-mindedness and purity of conscience needed for just warfare.⁽¹⁾

Vanderpol does not minimise, although he does not unduly stress, the importance of a right intention for Aquinas. He does not distinguish between 'intention' and 'motive', so the right intention must include the objective aim and the spirit in which it is carried out, and both appear to be interdependent conditions for both Aquinas and for Vanderpol. He points out that only a spirit in which this aim of doing justice is preeminent is a right one. The sovereign or prince must act impartially as a judge⁽²⁾ and should utterly suppress any other wicked or selfish motives which might accompany or hinder his intention of achieving perfect justice. The right spirit, therefore, as well as the right aim is one of impartial justice. Vanderpol quotes the supporting opinions of other medieval writers such as Cajetan, Antonin, Hostiensis, Raymond de Penafort and Bellini. It would certainly seem that for Augustine, the 'father' of the doctrine, the rightness of motive is infinitely more important than any apparently objective justice, at least from

(1) "Only the General and the Army inspired with something like the Faith of the Israelites of old could let loose so terrible a thing as war in the spirit of God and not of the devil". (Stratmann, p.61.)

(2) Cf. 88. *ibid.* Vol. 74.

a Christian point of view. For his 'Christianising' of warfare is solely in terms of motive and intention. What is evil in war is not that men should die, but that war should be conducted in a spirit of cruelty, vengeance and hatred, and war can be turned into 'peace' by the spirit in which it is fought. (1)

Stratmann accepts a right intention as an essential condition for Aquinas's just war without discussion, and concludes very simply that this condition would appear at once to condemn most if not all wars as unjust. In fact he maintains that the Augustinian-Thomist theory is valuable precisely because it makes justification of war so very difficult, and is therefore 'the most practical and useful theory that can be thought out and fits in with the new moral consciousness which has been born of the agony of the world war'. (2)

In reality, it is difficult to see how this distinction between subjective and objective justice can be effectively maintained. The example Regout gives of its occurrence in a dispute between two persons is so far valid, and it is in accordance with traditional

(1) Contra Faust. XXII.74.

(2) p.76. Contra Faust. XXII.74.

legal thinking. But it implies applying objective standards only to one static aspect of a continuing situation. It may be just for a man whose goods have been taken from him by some one acting under an honest mistake, or even have been stolen from him to take measures to recover them, but by standards of objective justice, it might be decreed necessary to take the respective needs of the taker and the owner into account, and to make very sure that no further objective injustice be committed in the course of recovery. It is this latter condition which makes the relevance of objective justice to war questionable. An objective injustice may look like a perfectly legitimate cause of war, but this by no means ensures that such a war would then in itself be necessarily just, indeed the impersonal nature of the injustice would weigh heavily against the justice of injuring and killing persons as a means of correcting it. To allow an objective injustice as a sufficient cause of war should imply that objective standards are paramount, and the objective justice of a war cannot be assured simply on the grounds that the objectively just side has the intention of adjusting some objective injustice.

Such objective justice cannot be assessed until a war

is over, for only then is it possible to balance the deaths and damages suffered by both sides against the original injustice. However, the very fact that it is possible for war to be just only when the objectively just side seeks to right an objective injustice means that the objectively just side has to act with a right intention, and a right intention exists subjectively and not objectively. As the objective justice of war itself cannot be assured in advance, the right intention must be of great importance. Moreover, any assessment of the objective justice or injustice of a situation must be made by a mind, or minds, whose terms of reference are the fruit of human experience and opinion. As, therefore, an 'objective' judgement of any situation must take into account subjective factors, a merely and wholly objective judgement is virtually impossible in human terms. There is even a sense in which it can be said that subjective justice comprehends objective justice, for the individual human being must take objective justice into account in determining a right course of action.

A further difficulty arises when the cause of war is separated from its conduct. If it is legitimate to eliminate all subjective factors of motive and intention from the cause and

so leave the latter objectively just, the same elimination of subjective factors might be applied to the separate acts which constitute a war's progress. If this were done, the progress of a war would consist of human beings killing and trying to kill each other without any motive or intention at all.⁽¹⁾ This is clearly absurd.

Looking at the question objectively, it would seem that nothing less than a crime of the scope of mass murder could justify war, for it could hardly seem objectively just to kill indiscriminately to right any lesser crime. Were it otherwise, it would become just to kill and steal in order to bring down the rich and rescue the destitute. From a specifically Christian point of view, of course, the hope of achieving any kind of absolute justice in such an activity as war is remote indeed. Where much weight is allowed to the individual personality, and where human nature is held to be essentially flawed by original sin, justice, insofar as it remains a wholly human thing, can be thought of only in relative terms which may present an appearance of disappointing vagueness. It may be for this reason that some Christians like most secularists tend to assign justice in war to the objective category.

(1) Any assessment, moral or otherwise, of such a situation, would be that it was wicked or insane.

Whatever one thinks about the relative importance of and the relations between them, however, the separateness of the conceptions of subjective justice and objective justice opens up a way into the heart of the problem. Justice thus lies open for analysis. In traditional thinking, the division has been reinforced by aligning with subjective justice, individual, inward, religious and self-regarding, as well as other-regarding morality, and with objective justice collective, social, political outward-looking and other-regarding morality. Legal philosophy has always tried to distinguish the boundaries of the latter group, which concerns the duties of fulfilling the rights of others who can say they have been wronged if such duties are not performed. Natural law, on the other hand, because it has been rooted in human nature, has tried to find eternal and universal principles from which to deduce that system of duties whose performance will achieve subjective justice in the individual or group carrying them out, and objective justice inasmuch as they fulfil the rights of others. It has often been thought, therefore, that natural law can bridge the gap between the two kinds of justice.

Nevertheless, the gap exists, and there has been a natural

tendency to categorize problems, and their assignment to one of these partial kinds of justice means that there has been the danger that they might never be seen in the light of the overall justice of which the two categories are only subdivisions. This is what seems to have happened to the problem of war, for although a passing recognition of the subjective aspects of its morality has often been made, for allthorough and serious consideration it has been increasingly assigned to the sphere of collective, political and secular morality, the sphere of objective justice.

However, the war articles of the Summa Theologica suggest that Aquinas himself did not consider war from one point of view alone. From them only it would seem clear that he thought a just war needed right intention on one side and moral guilt on the other. It would seem just as clear, however, that he thought of war as a collective activity, for he never even hinted that war might be seen not as a matter of just and unjust sides but as one of just and unjust men. For Aquinas, as long as war was declared by right authority, the just decision of one man could be held to comprehend the morality of the individuals in his armies.

Aquinas, therefore, considered war from both the collective-political and the religious-subjective points of view and presumably found no conflict between them. He was able to do this, presumably, because in fact he saw matters of ethics and politics from what, in the discussion of subjective and objective justice, has been called the bridge of natural law. For Aquinas, natural law was the great harmonising principle.

CHAPTER FIVE.

A SUMMARY OF THE DEVELOPMENT OF NATURAL LAW TEACHING BEFORE AQUINAS

Natural law so permeates the political and ethical thinking of Aquinas that little is to be won from considering what he wrote on war without an examination of his understanding of it. And since by his time it had become an established and at the same time a complicated way of thinking, this calls first for an outline of its growth and meaning through previous centuries.

The doctrine of natural law is, broadly, that innately and ideally, man has an understanding of those moral and divine laws and principles which are implicit in his whole make up and which should govern his conduct, and that these are made explicit

by his whole mind but particularly by that most consciously logical part of it, his reason. These laws are imprinted in his very being and in the very construction of his mind, and by them he is taught what he ought to do in the personal, social and political spheres. His reason and will are responsible for achieving such obedience. Just as the eye, because it is an eye, must see, so the mind, by its very nature knows in itself that which is good and right.

The doctrine has been the subject of so much controversy and has been interpreted so variously that it may appear to have lost much of its authority. Some of the confusion has arisen from the limitations of human speech. The word 'nature' for example, brings into view the possibilities of ambiguity which are so often met in discussions of theories of analogy. The confusion reflects the imperfections of the human mind in that the latter cannot even create a completely adequate means of expression. In one sense the 'doctrine' is completely implicit in man himself; he is necessarily involved in the laws of his own creation, and since he is naturally a rational being it might be taken for granted that whenever he thinks about questions of right and wrong he must do so with his mind and that this must

be the agent and guarantor of his conclusions. Man is not content to accept such an apparent inevitability without expanding and exalting it into a doctrine, and in doing this he discovers that it reflects hidden discrepancies and difficulties in his own nature.

The idea was first expressed explicitly as a doctrine by the Greeks, particularly by the Stoics. From them it then passed into Roman legal thought. Later it is found in the Church Fathers, the canonists and the theological writers of the early middle ages.

In its early stages the divinity of the law of nature is rarely questioned. There is little insight into the possibility that the imperfection, as well as the finiteness of man's reason, should make him hesitate to identify it with the reason of God, and to trust its infallibility and power to guide him morally. The main dispute centres rather round whether it is a law already and specially adapted to man's present imperfection, or whether it is suited only to a state of original or ideal perfection.

This obviously affects the relationship of the natural law to the ius gentium⁽¹⁾ and to the civil law (which more obviously owes

(1) The term ius gentium covers laws obtaining among all peoples and is of value in governing relations between states. It first appeared in the writings of Cicero, and was adopted by Gaius and Pomponius. The concept however was not unknown to the Greeks.

its origin partly to particular situations and circumstances and to the more arbitrary and independent human will), and also one's attitude not only to laws but to the authority of the major social and political institutions such as the family and state, with their dependent considerations of slavery, equality, political authority and international relations. And although in the early stages it is little discussed, the question of the metaphysical integrity of the doctrine of the law of nature is here obviously relevant.

One of the most famous of the early statements of the Stoic view of natural law was made by Cicero, who wrote:

"True law is right reason in agreement with nature; it is of universal application, unchanging and everlasting; it summons to duty by its commands and averts from wrongdoing by its prohibitions. And it does not lay its commands or prohibitions upon good men in vain, though neither have any effect on the wicked. It is a sin to try to alter this law nor is it allowed to attempt to repeal any part of it, and it is impossible to abolish it entirely. We cannot be freed from its obligations by Senate or People, and we need not look outside ourselves for an expounder or interpreter of it. And there will not be different laws at Rome and at Athens, or different laws now and in the future, but one eternal and unchangeable law will be valid for all nations and all times, and there will be one master and one ruler that is God over us all, for He is the author of this law, its promulgator and its enforcing judge." (1)

(1) De Republica. III. xdi.33.

Among the consequences of this is a belief in the natural equality of all men⁽¹⁾ with a corresponding freedom and right of every citizen to a share in political power.⁽²⁾ He also thought of the state as an organic⁽³⁾ natural growth, but he is aware that the actual conditions of law and society do not always embody the ideal. This typical Stoic tendency to notice the discrepancies between the ideal definitions of natural law and the actual laws of state and society, which is reminiscent of the scepticism of the sophists, develops into an attempt to separate them in definition, care being taken never to use the term 'law' without qualifying it, and to take into account any discrepancy.

Cicero/

Seneca did not use the term natural law, but simply 'nature.' Nevertheless, he too followed the Stoics and held Cicero's beliefs in the equality of men, in the supremacy of nature and reason, and in the freedom of the soul. However, he was more careful to allow that existing institutions and laws do not by any means always witness to their authority, and explains that only in the primitive and to some extent undeveloped innocence of mankind was the law of nature fully obeyed and society so

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- (1) "... by nature we are disposed to love men; this is the foundation of law..." - De Legibus, I.xv.43.
 (2) "... Dr Carlyle has rendered a great service by emphasising the fact that this is the most important difference between Cicero and the greatest of the Greek philosophers... The idea of the equality of men is the profoundest contribution of the Stoics to political thought, that idea has coloured its whole development from their day to ours, and its greatest influence is in the changed conception of law that in part resulted from it..." McIlwain: The Growth of Political Thought in the West. pp.114.-115.
 (4) De Republica. II.1.1-2.

perfectly ordered under the government of the best and wisest rulers that other conventional laws and institutions were unnecessary. As things are, he thought these were necessitated by the corruption and wickedness of later man, not by the complexity which is the rich consequence of his creativeness and progress.

The complexity of natural law theories can be seen most clearly in Justinian's Corpus Iuris Civilis. Professor d'Entrevès⁽¹⁾ maintains that the distinction between the natural and the conventional is the very backbone of the theory of law laid down by Justinian, but he also shows how this distinction causes uncertainty and controversy, and that such a theory of law in general is not easily abstracted from the contradictory opinions in which it is expressed. There is dispute among scholars about the genuineness of some of the references to natural law. Some of the most direct and high-sounding of these are thought by some to be interpolations or, if genuine, to be no more than conventional rhetoric. The nature of the Corpus Iuris Civilis (whose main parts were published in 529-534 A.D.) accounts for much of the difficulty. It consists of the Institutes, a short elementary book for students, largely based on the four hundred years old

(1) Aquinas, Selected Political Writings, p.XVI.
See also D'Entrevès: Medieval Contribution to Political Thought, page 30 and Natural Law, p.23ff.

Institutes of Gaius; the Digest, a mass of extracts from juristic writings, representing different schools and outlooks from the 1st century B.C. to the 3rd century A.D., hastily strung together by Justinian's commissioners with interpolations to bring them into line with the law of the 6th century; the Codex, a collection of previous legislation; the Novels, legislation from the later years of Justinian's reign. Critical examination of the text may therefore be expected to reveal underlying contradictions and divergencies of thought.

On this particular question Gaius and Ulpian have often been taken as representing two opposing points of view. It has been held that Gaius identified natural law with the ius gentium⁽¹⁾ and, while contrasting both with the civil law which is appropriate only to particular nations and situations, that he advocated that civil law should also be an expression of the natural reason which is more universally expressed in the natural law. It has also been held that he thought natural law was rooted in the reason of man rather than in his nature, as a whole, and that he thought of it as apprehended by rather than created by man.

(1) McIlwain: The Growth of Political Thought in the West, p.119.

This interpretation of Gaius, however, can be questioned. Gaius did say both that the ius gentium has been established among all men by naturalis ratio⁽¹⁾ and that it is equally observed among all men through naturalis ratio.⁽²⁾ But the only straightforward identification of the two kinds of law is in a paraphrase by Justinian.⁽³⁾ Moreover, the true meaning of naturalis ratio in Gaius is far from clear, for he used it at times in such a way that it can mean no more than the natural way of things.⁽⁴⁾ "Natural" is used of animals⁽⁵⁾ as well as of men, and when Gaius described the various institutions which form the ius gentium as "natural" and so made it possible for his commentators to say that he identified the ius gentium with the natural law, it may well be that for him the natural law was a far less predominantly rational thing than it was for other writers.

When Gaius discussed methods of acquiring and losing

(1) Gaius: Inst. 1.1. This is repeated in the Institutes of Justinian, 1.1.1.

(2) Gaius: Dig., XLI, 1.1.

(3) 'ius naturale quod sicut diximus appellatur ius gentium' Where Gaius says that ius gentium was begotten with the human race itself, Justinian's paraphrase says that ius naturale was begotten by rerum natura with the human race itself. (Justinian. Inst. 1.1.11.) This is the paraphrase of the text referred to in footnote (2) above.

(4) When we capture a wild animal it becomes our property naturali ratione - Gaius: Inst. 11.66, so too in Justinian Inst. II.1.12.

(5) Animals have their "natural" liberty - Gaius: Inst. II.66. The "nature" of bees is wild - Dig. XLI, 1.5.

ownership by ius naturale as opposed to the ius civile of Rome, ⁽¹⁾ he replaced the contrast between ius gentium and ius civile by that between ius naturale and ius civile. Justinian, paraphrasing in Inst. 11.1. sometimes repeated Gaius but on two points at least (acquisition by capture from the enemy and acquisition by alluvion) altered the iure naturali to iure gentium. This may indicate that for either Gaius, or Justinian's compilers, or for both, the terms were interchangeable; on the other hand it may indicate that in spite of the ius naturale quod appellatur ius gentium of Justinian's Inst. II.1.11, Justinian's compilers were more conscious than Gaius had been of the possible separation of ius naturale and ius gentium. In Inst. 1.11. (which, however, is flatly contradicted by 11.1.11.) the separation is explicitly made as a logical consequence of their adoption of Ulpian's view of ius naturale.

Those who identify the natural law with the ius gentium do not need to envisage a state of primitive innocence, and they can accept such institutions as slavery and private property as rational and just, not because men are by nature unequal but because such institutions evolve naturally and rightly from

(1) Gaius. Inst. 11.65-79.

certain circumstances such as war. Ulpian is usually regarded as representative of the slightly later view that the law of nature may not only be different from but even contradictory to the ius gentium.⁽¹⁾ Tryphoninus, Paulus and Florentinus share this view, but it is not so certain that Ulpian's identification of the law of nature with the animal affinities of man, which is his most explicit reason for separating it from the ius gentium, is so popular.⁽²⁾ Paulus, in fact, who does not speak of reason at all, clearly says that the ius naturale is always equitable and good.⁽³⁾ Ulpian's opinion that slavery is a result of war and according to the ius gentium was widely shared, Florentinus going so far as to define it as against nature,⁽⁴⁾ and Dr Carlyle suggests that it was the problem of slavery which first occasioned the distinction between the ideal law and actual institutions

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- (1) "...Private law is threefold; it can be gathered from the precepts of nature, or from those of the nations, or from those of the city. Natural law is that which nature has taught all animals; this law indeed is not peculiar to the human race, but belongs to all animals... From this law springs the union of male and female, which we call matrimony, the procreation of children and their education... The law of nations is that law which mankind observes. It is easy to understand that this law should differ from the natural, inasmuch as the latter belongs to all animals, while the former is peculiar to men..." - Ulpian: Dig., I.1.1.2-3.
- (2) Grotius rejects the notion of a ius naturae which men and animals share, because those activities common to them have no connection with justice whatsoever: "What the Roman lawbooks say of a law of nature which we have in common with animals, which they call more peculiarly ius naturae, besides the natural law which we have in common with men, which they often call ius gentium, is of little or no use. For no creature is properly capable of ius which does not by nature use general precepts: as has been remarked by Hesiod, Cicero, Lactantius, Polybius." (Rk.1.Ch.1.XI.1.)
- (3) Dig. I.1.11.
- (4) "Servitus est constitutio iuris gentium qua quis dominio aliene contra naturam subicitur." (Dig.1.5.4. probably adopted by Justinian Inst.1.3.2.)

There is more uncertainty about private property, Florentinus, for example, believing it to be natural, primitive and innocent and Ulpian and Hermogenianus leaving the question unsettled.

Generally speaking there seems to be agreement that by the end of the second century the belief in the natural equality of men was accepted, and that this led to at least the theory of the right of the people to share political authority.⁽¹⁾ This theory became one of the sources of the later theory of social contract. The attitude of the Roman lawyers to the nature of the civil law is similarly constant. It might find its direct origin in the will of an individual and apply only to a unique situation or particular nation, but it ought nevertheless to embody the principles of natural justice.⁽²⁾ Dr Carlyle, Professor McIlwain and Professor d'Entreves agree that the somewhat uneasy consciousness of the difference between the ideal law of nature and existing institutions of the ius gentium is one of the most

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- (1) Otherwise, the sovereignty of the people. The theory of popular sovereignty was reconciled with the fact of imperial rule by reference to the lex by which the populus conferred authority on the Emperor. It is interesting to note that Gaius merely says 'the Emperor himself receives his imperium by a law' (Institutes of Gaius, 1.6.) whereas Justinian (Justinian's Institutes, 1.11.6) says that the populus by the lex regia 'yields to him and upon him all its imperium and potestas'
- (2) "... The ius civile is a law which neither departs entirely from natural law or the law of nations, not yet wholly follows it..." Ulpian: Dig. 1.1.6.

striking tendencies in the Corpus Iuris Civilis, and that, in the words of Professor McIlwain:

"... Ulpian and others set forth in unmistakable terms the idea, nor merely that the two are distinct, but that the ius gentium was of later historical origin and its actual content the result of strife and war. It was the views of Ulpian rather than of Gaius that later jurists followed on this point, as the Institutes of Justinian show, with the result that the weight of the Roman law was ultimately added to the influence of the philosophic views of Seneca to combine with Genesis in forming the theories generally accepted in the Earlier Middle Ages, on the question of the origin and nature of Social Institutions such as Slavery and Government, that is that they are due to a departure from innocence..." (1)

and Dr Carlyle writes:

"There can be no doubt that normally the authors of the Institutes did distinguish the ius naturale from the ius gentium. Their formal definition of the ius naturale is, as we have seen the same as that of Ulpian, that is they reproduce that definition which suggests that the ius naturale means little more than the instincts common to all animals..." (2)

However, Dom. Lottin finds in the Institutes a tendency to bring together natural law and the ius gentium. He points out that Justinian leaves out the text of Ulpian which underlines

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- (1) The Growth of Political Thought in the West, pp.119-120 -note, however, that in the Institutes Justinian starts with Ulpian's definition and then follows it with the text of Gaius word for word, as if there were no contradiction.
 - (2) R.W. and A.J. Carlyle: Mediaeval Political Theory in the West, Vol.1. pp.73-4. On the other hand Dr Carlyle points out the frequent presence in the Institutes of that other identification of natural law with the rational and divine nature of man.

(pp.74-5)

the difference between the two and uses the same terms to describe both of them. (1) Dom. Lottin also suggests that the Roman lawyers held a more positivist interpretation of civil law than of the ius gentium, and that the latter was for them, therefore, more closely tied to the ius naturale. (2)

Generalisations cannot be readily abstracted from the Corpus Iuris Civilis. Its texts may be interpolated, and even where genuine they reflect divisions and developments of opinion on justice. Still, Professor d'Entreves maintains that, despite such uncertainties, there is reflected in it the actual historic growth of Roman law from narrow to broader and more universal conceptions. (3) He points out that to the Romans the words 'nature' and 'natural' tended to mean what was normal and functional rather than what was divinely ideal, and that the natural law had no power to overrule established law, its function, apparently, being its influence as a transcendental ideal to which the other laws should attempt to approximate themselves. This, says Professor d'Entreves, supports the theory that for them the main importance of the doctrine of natural law

(1) Le Droit Naturel chez St Thomas d'Aquin et ses prédécesseurs. pp.8-9

(2) Ibid., p.9.

(3) Natural Law, p.28.

lay in its practical day to day utility rather than in its philosophic truth.⁽¹⁾ If, however, as has been held so often, its goodness and compelling power lie in its truth and perfection, the philosophic truth of natural law can be overlooked only at the cost of bringing down the theory to the level of a description of the ordinary workings out of human relationships in society.

The early Christian thinkers went to the Bible for confirmation rather than for denial of the doctrine of natural law, which had already become weighted with the inevitability of tradition. The New Testament, although it does not mention natural law by name, is obviously concerned with the nature of man and the laws of his human and divine relationships. Christ shewed that man is essentially spiritual and the spiritual is in a sense supernatural. The implications of this for any doctrines of the laws of reason and nature are obviously far-reaching, and have to be related to the Christian teaching on human nature and the Incarnation.

The passages which have the closest bearing on natural law are Romans II.12-15⁽²⁾ and Romans XIII. 1.⁽³⁾ The Fathers.

(1) Natural Law, p.23. pp.28 - 30.

(2) "For as many as have sinned without law shall also perish without law; and as many as have sinned in the law shall be judged by the law. For not the hearers of the law are just before God, but the doers of the law shall be justified. For when the Gentiles, which have not the law, do by nature the things contained in the law, these, having not the law, are a law unto themselves. Which shew the works of the law written in their hearts, their conscience also being witness, and their thoughts meanwhile accusing or else excusing one another."

(3) "Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God."

compared with these many other texts which seem to condition their authority, such as Romans VII. 22-5⁽¹⁾ and Mark X.42.⁽²⁾

In general they adopted the pagan doctrine of natural law and underlined its essential divinity, identifying it in its perfection with the Mosaic law and even with the teaching of the Gospel.

Its very excellence, however, means that it is to some extent irrelevant to man as he now is, and that its authority was appropriate only to that period of his primitive innocence which the Fathers ascribe to the time before the fall. They thought its simplicity and powerless restraint no longer sufficient to check the wickedness of his ways and organize their complexity.

The ius gentium and the ius civile must undertake such tasks.

These human laws and such conventional institutions as coercive government, private property, slavery and war were apparently regarded and justified by the Fathers as not only sinful but simultaneously a 'remedy for sin,' their genius lying in their realism. For, as Dr Carlyle says,

"... slavery, private property and government are institutions arising from the vicious tendencies of human nature as it is, but they are also the instruments by which these vices are corrected..." (3)

(1) "For I delight in the law of God after the inward man: but I see another law in my members, warring against the law of my mind, and bringing me into captivity to the law of sin which is in my members. Oh wretched man that I am! who shall deliver me from the body of this death."

(2) "Ye know that they which are accounted to rule over the Gentiles exercise lordship over them; and their great ones exercise authority upon them. But so shall it not be among you; but whosoever will be great among you shall be your minister. And whosoever of you will be the chiefest, shall be servant of all. For even the Son of Man came not to be ministered unto, but to minister, and to give His life a ransom for many."

(3) p.145.

ransom for many."

He suggests that this interpretation by the Fathers is "in its own way profound and philosophical."⁽¹⁾

It is certainly an explanation which demands much thought and analysis, for at first it sounds like a gross simplification or a dangerous paradox, implying, among other things, that sin can be organised to defeat its own ends, and that one of the arts of living in society is to produce such a state of tension between sinful tendencies that they are mutually frustrated. This might be taken to imply that by establishing a fitting organisation of evil man could be said to be imitating God, who brings good out of evil.

But slavery, for example, cannot be justified - though many of the Fathers said that it can - simply as a due and proper punishment of the slave and as a benefit in that it curbs his vices. Not all slaves qualified for such punishment, and, in fact, the institution in itself no doubt often fostered the vices of greed, possessiveness and laziness in the slave owners, besides faults in the slave. In practice, of course, the Church eventually helped towards the abolition of slavery, but for long its clumsy theories had the opposite effect.⁽²⁾ Its support

(1) p.120.

(2) Medieval Political Theory in the West, Vol.1., pp.123-4.

through many ages of an institution which might at one time have had some remedial benefits to offer led later to a toleration of the shameful exploitation of the Negro races.

Private property the Fathers thought of as a human institution and not essentially sinful. However, they generally agreed that common ownership and individual use best accord with the natural and ideal order.⁽¹⁾ Today we tend to think of private property as something which can be redeemed by the use to which it is put, or justified as the fruits of labour.

But the most important and complicated development of the relationship between a human institution and an ideal natural law is to be found in the Fathers' theories of political authority and of the relationship between Church and state. It is difficult to see the precise relevance of the doctrine of natural law and of its exact relationship to the divine will and to the ius gentium as they are revealed in the political thought of the Fathers. Augustine and Gregory, for example, agree that coercive government is both necessary because of sin and a divinely appointed remedy for it. But the difficulty of understanding the relationship between the divine natural law and the human

(1) Ibid., pp.138 - 146.

institution is certainly writ large in the long discussion of Church and state. In fact, though not in theory, the Church is an institution having the same status as the Fathers assign to coercive government, since in one sense the Church is supremely needed because of man's sin and is the supreme remedy for it. As Christians cannot be excepted from the general human imperfection, the Church as it is must be partly caused as well as occasioned by sin, and it is not easy, therefore, to see that the Church has a better claim to embody the authority of the natural or divine law than the likewise human and imperfect institution of the state.

The Roman theory of the political authority of the people can be seen as a direct consequence of the natural law of equality, and the constitutional conception of monarchy can be seen as a consequence of belief in the universality of law. But the peculiar doctrine of the divine ordination of government and of the king, which was the Fathers' contribution to political theory, ought to modify profoundly, it seems, their theories of ius naturale, ius gentium, ius civile and their interrelations. Otherwise it can only shew up their intrinsic inconsistencies. The institutions of the ius gentium were previously regarded as

caused as well as occasioned by man's sinfulness. But here arises the apparent paradox that government, although caused by sin, is in fact as divine as natural law itself, and far more relevant. It would seem that only by some miracle could the same thing be caused both by man's sin and by God's will. For as long as government is coercive, it is only possible to reconcile the belief that

"... natural equality which... is contrary to slavery, is also contrary to the subjection of man to man in government..." (1)

with belief in the divine ordination of the king and of civil government⁽²⁾ by postulating two types of divine law or institution. These would have to be assumed equally natural, rational and divine, but whereas the one would be held to be adapted to apply to a state of universal innocence in the remote and imagined past, the other would be held fit to apply to a present condition of such obvious general imperfection that it could be justifiably imposed on all men equally.⁽³⁾ In this light the ius gentium becomes simply another type of divine law in which the comprehensiveness of the power of the king includes such institutions as slavery, private property and even ius civile, and would seem, for all human purposes, more natural, apt,

(1) Medieval Political Theory in the West. Vol. 1. p.125.

(2) Ibid., p.129.

(3) Troeltsch, in fact, speaks in terms of absolute and relative natural law, and discusses the difficulties of reconciling them. (Ernst Troeltsch: The Social Teaching of the Christian Churches. Vol.1.p.154, p.267, p.343

powerful and even more divine than the natural law itself. For whilst it pushes the latter further into the background as ineffective in its irrelevance, the theory of the divine right of kings, despite the fact that even the most divine laws are conditioned by the sinfulness of the human beings to whom they are addressed, stands forth as grounded on revelation and directly ordained by God.

In theory, therefore, the relationship between the ius naturale and the ius gentium is so confused that it is hard to separate them. In reality, of course, human perfection and imperfection are so haphazardly intermingled and disguised that no definitions, however tidy, can ever adequately discover, divide or restrain their dynamic character, and consequently institutions and organisations cannot separately contain or embody them.

The doctrine of the divine right of kings, however, may not be all that at first it seems. It was partly created to counteract a tendency to anarchy within the Church and state after the conversion of Constantine, and partly an expression of a psychological tendency in man to deify a leader, and, rightly or wrongly, the Fathers thought the Old Testament supported it.

Such origins might well seem to undermine its authority, as, indeed, might its later history, for it was the imperialist party which upheld it in its own self-interest, while the Church became willing to place ultimate political power in the people. In the world of affairs its theological and metaphysical truth was accounted of rather less importance than its political usefulness to the parties concerned.

It is not surprising, therefore, that the doctrine was interpreted in diverse ways even in the early stages of its growth. Gregory the Great, for instance, followed Augustine⁽¹⁾ and believed that the authority of the king was so absolute and divine that it must in no circumstances be disobeyed, even though in fact it had to be acknowledged that the king himself had lapsed from his divine mission. There must have been some disagreement, therefore, as to whether the institution or the person was divine and to be obeyed, and as to whether the king was only to be obeyed when he was acting in accordance with the divine intention of his vocation. Most of the contradictions of this kind seem to have some kind of basis in the writings of Augustine, who believed not only that justice must be founded on Christian law as well as on the natural law, but also that

(1) De civitate Dei, v.21.

the worst kings like the best have God's direct authority, and therefore have to be obeyed in all circumstances.⁽¹⁾

By the ninth century,⁽²⁾ the theory of natural law was no longer a leading interest among philosophers. The general view was that it was meant to apply to a state of innocence. In the fallen world, however, the best that could be hoped for was that the ius gentium, which finds expression in institutions such as government, and which was still looked upon as both the result of and as a divinely ordained remedy for sin, should be inspired by the spirit of justice. More concern with the metaphysical truth of the definitions of ius naturale, ius gentium and ius civile might have led, in this age as earlier, to a revision or an elaboration of them which might have made it unnecessary to believe both in the natural equality of all men and in slavery. Such studies might have thrown some light on the practical relationship between the ius naturale and the ius gentium. But the writers were engaged with bewildering political affairs and gave little space to abstract theories. There is little open quarrel with the theory of the divine authority of the ruler, but for various historical reasons both his divinity and his power became suspect or acknowledged as corruptible. If these are still thought of as coming ultimately from God, a king, for them, can only exercise power by consent of his people, and his rule is

(1) Medieval Political Theory in the West, Vol.1. p.169, and The Growth of Political Thought in the West, pp.159 - 160.

(2) Medieval Political Theory in the West. Vol.1. pp.195-292

subject to the correction and blessing of the Church. The theory of the natural equality and liberty of man has an important place in ninth century patristic writings.

Many of the kings, in fact, seemed anything but divinely inspired, and the revolt of the Bishops of Rome against the iconoclastic emperors can be regarded as a protest against the extreme theory of Gregory the Great. Nor were the kings and Teutonic chiefs any longer high-minded enough to inspire the respect or reverence needed to foster such a theory, most of them being uncivilised and uneducated barbarians. The ninth century thinkers were also influenced by the Teutonic tradition in which most of them had been born, a tradition which had never allowed for the absolute power of a ruler, but regarded him as representative of the people as a whole. The Church, too, was becoming conscious of the difficulties it had created for itself in originating the doctrine, and was becoming jealous of the claims made in its behalf as well as honestly doubtful of its justice. The conflict between empire and papacy was growing, and it was no longer possible for the Church to hold the position taken by Augustine and Gregory the Great.

The period is interesting not because of its philosophical analyses of political problems but because it illustrates how

hard it is to sift the good from the evil in human affairs, or, in other words, to define to what extent and where the institutions of the ius gentium were in reality sinful, and to what extent they were a divine remedy for sin. Whatever the truth of the theory of natural law, it made for a good deal of muddle and hypocrisy.

The doctrine, then, was little in evidence, it was most alive, perhaps, in the belief in the natural equality of all men. This contributed towards the growing tendency to understand government as the mutual responsibility of king and people. In general it can be said that natural law was still recognized as relevant and indeed supreme in the Church and in the writings of the civilians. The division into ius naturale, ius gentium and ius civile, and the conception of natural law as the highest expression of that principle of justice which all human laws and institutions should strive to express and achieve were widely held. And sometimes the state was understood as an organic creation, a natural expression of the relations between itself and its members as between a whole and its parts.

Between the ninth century and the time of Aquinas, the most interesting writer on natural law was Isidore of Seville. He

repeated the traditional division of law into ius naturale, ius civile and ius gentium, but included it within a more comprehensive division of all laws into those which are divine and natural and those which are human.⁽¹⁾ This is reminiscent of Aristotle's classification of laws as either natural or positive, and might be thought to have a strong attraction for renaissance scholars.

Natural law, according to Isidore, is universal because it is based on the essential, inescapable nature of man. He did not say whether or not this 'nature' is meant to involve both rational and animal tendencies, nor did he speak of its relationship to the 'nature' which finds expression in human laws, since it is obviously 'natural' for man to be human. His distinction, in fact, implied a discrimination not so much between shades of morality or of naturalness as between degrees of universality. The civil law is proper to each people, the ius gentium is in use among the majority of mankind, and the natural law is universally common.

Part of that which is regarded as within the authority of the ius gentium in Roman law Isidore placed within the sphere of natural law. For him the ius gentium was obviously a human law

(1) Omnes leges aut divinae sunt, aut humanae... Divinae natura, humanae moribus constant... Etym. IV.2.

based upon general recognition and can be applied to relations between nations in general and to war and its consequences in particular.

It is not surprising that the first important collection of canon law, Gratian's Decretum,⁽¹⁾ belongs to a time of heightened conflict between Church and papacy. In such circumstances the Church had need of a firmly stated position, and once the position had been stated the foundations for the golden age of the canonists had been laid. Throughout the time of Aquinas canon law was a very living influence, especially in its attempts at defining natural law and the relation between natural law and itself.

For Gratian, the ius gentium and ius civile were human, and natural law divine.⁽²⁾ This division is reminiscent of Isidore and often found in canonist thought. At the same time the canonists believed that all human laws ought ideally to be inspired by the spirit of natural law. Common ownership belongs to the latter, but in the fallen state of the world private property has been instituted by positive law. The fundamental rules of natural law are those of the Old Testament Law and the Gospel, do unto others what you would they should do unto you, and do not unto others

(1) C. 1140.

(2) Prof. Hazeltine reckons that Aquinas's great achievement was to put Gratian's identification of natural law and divine law upon a theological - philosophical basis (Intro. to Walter Ullmann: The Medieval Idea of Law, p.XXI.)

what you would not that they should do unto you. But the canonists gave little thought to relating natural law to the animal nature of man. They treated the ius gentium as a simply human law while they exalted the excellence of natural law. The latter they thought most ancient, stable, immutable, indispensable and conceived as the rational creation of man, and all other types of law which were not in harmony with it they called invalid.

Although there was little original in this understanding of natural law, its insistent repetition by the canonists, the integration of its strength within their own system of canon law and the making explicit of its divinity through its coincidence with the Gospel gave to it a prominence which almost amounts to a new interpretation, or at least to a new lease of life. In the renaissance debate on the relationship between theology and philosophy, natural law became the most popular means of creating an impression of harmony between them. It also became a wellspring from which were drawn many high-sounding pronouncements on political attitudes. Up to this time, natural law had been a somewhat lifeless theory rather out of touch with the realities of man's present state of existence. Now it was endowed by some with the immediate divine task of integrating heaven and earth.

To what extent this high art inevitably became a compromise and how this in itself is related to the fundamental metaphysical and psychological soundness of the doctrine are difficult questions to answer. It is certainly not easy to tell whether in its new role it was a tool more befitting the hands of Pope or emperor. Dr Ullman would see in the widening comprehensiveness of the theories of natural law and canon law at this time the strengthening of a bulwark which was to be of major use to the papacy. In its claim to integrate reason and revelation he would even see a type of Christian pantheism derived from stoicism.⁽¹⁾ At the same time he finds in it certain illogicalities. In the canonistic writings of the time confused and contradictory claims were made for canon law and for natural law. Canon law was sometimes considered identifiable with natural law while transcending it in its power to comprehend all laws, human and divine. Its reasoning is more sophisticated and was held to be more powerful in that in certain cases it lays down the conditions of papal dispensation from natural law.⁽²⁾ But at the

(1) "...We venture to maintain that it was a species of Christian pantheism which permeated the canonistic conception of the divine (natural) Law. And this was explained and taught as a dogma at the very time at which the Thomistic idea of natural law gained ground amongst philosophers and theologians..." (Ullmann: Medieval Papalism, p.46)

(2) "...And since the Pope was, if no more, the vicar of Christ, it was consequently in his power to change this law, like any other. The Roman idea that the pope as a prince was not bound by the laws was made to apply not only to human, but also to divine laws. And this particular instance of natural (divine) law provides a fitting occasion to observe, firstly, how little canonistic scholarship was influenced by contemporary scholastic theology and philosophy, and secondly, that the Thomistic system of law in particular made no impression upon contemporary or later canonists....On the whole, the mutual relations between St Thomas Aquinas and the canonists were somewhat strained, and the mutual influence negligible." (Ullmann: Ibid., p.47.)

same time natural law, either in its own right or transfigured, translated and controlled by canon law, became something of a new power and guarantee of authority and rectitude.

Canonists and theologians of the twelfth and thirteenth centuries took an increasing interest in the psychological and metaphysical 'anatomy' of the doctrine of natural law. This found expression in a proliferation of learned terminology which, if it does not always explain, does at least make explicit the difficulties and dangers of inherent contradiction and complexity. These activities sometimes touched the depths as well as the heights of subtlety. Generally the canonists tried to integrate hierarchically within their doctrine of natural law former definitions of it, even those which appear to be contradictory. In this way they achieved a comprehensiveness which took in animal tendencies and such specifically human matters as the ius civile and ius gentium, as long as these were controlled by or orientated to the Scriptures.

In the hundred years before Aquinas, interest in canon law was so widespread and lively that it is not always easy to pick out individual contributions to the study. Nevertheless, it is not impossible to discover some of the most important contributors

to its growth after the time of Gratian.⁽¹⁾

Among these, one of the earliest was Rufinus.⁽²⁾ His particular contribution was the division of the natural law into mandata, prohibitiones and demonstrationes. The latter, he held, concerns what is convenient, fitting or permissible, such as equality of liberty or common ownership. Only this category admitted of alteration. Positive law is ideally the ramification of natural law and can extend it. In amore general way he thought that natural law was as much a matter of inclination as of knowledge. This inclination had been tarnished by the Fall, but its recovery was guaranteed by the New Testament. Rufin's terminology was often repeated and his ideas exerted a steady influence.

The Summa Coloniensis adopted Rufin's terminology. It held that the ius gentium is, in a sense nothing other than the natural law, and suggested that the natural law became unchangeable only when immortalised in the written Law of Moses. Its most useful philosophical idea was that the law of nature remains unchangeable when manifested in generalities, but that,

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- (1) For much of the material of the following section I am indebted to Dom. O. Lottin: Le droit naturel chez saint Thomas d'Aquin et ses prédécesseurs.
 (2) Summa Decretorum (1157 - 9)

without ceasing to be natural law, it may admit some variation in application to particular instances.

(1)
In his Summa, Simon de Bisiniano related natural law to, or even identified it with, the synderesis. Although this superior part of the reason has been weakened by sin, Simon held that its power to interpret natural law directly has not been wholly lost and that it provides the means of our working in harmony with natural law. His understanding of natural law, therefore, applies to homo sapiens rather than to animals as a whole and the rest of creation.

(2)
The Summa Monacensis interpreted the same psychological fact in different words. Natural law was there connected fairly directly with the divine law - quia originem trahit a naturali ratione - while the notion of natural law as "the law common to men and animals" was passed over. Rufin's distinction was accepted in substance but the demonstrationes were replaced by consilia and permissiones. The ius gentium was conceived as an expression of natural law, and a new and yet wider scope was given to the latter in recognising it as manifested in the ways of the universe itself, and therefore as an expression of God's creativity or will.

(1) C. 1177-79

(2) C.1175 - 8.

In the Summa Lipsiensis,⁽¹⁾ Simon's synderesis and the vis insita of Rufinus became the liberum arbitriumⁱ. However, the writer⁽²⁾ in this work limited this faculty to the business of judgment. Another faculty of human reason, l'operari, he said, is responsible for putting judgment into action. Huguccio de Ferrare,⁽³⁾ on the other hand, sought to keep natural law as simple as possible. Without seeking to refute the elaborations of it, he thought of natural law as a harmony of animal and moral tendencies.

Generally, then, the canonists agree that natural law is essentially the integrating and harmonising principle of reason, which includes, while it controls, the instinctive and animal tendencies in man, and reverences as its criteria the divine and rational laws of God.

In the circumstances of the time, theologians could not but be influenced by the canonists, and in general they made much use of the Glossa Ordinaria of John the Teuton. Their attention centred on some of the Old Testament problems such as the divine toleration, if not command, of polygamy or homicide. The question of marriage became predominant because it involved

(1) C.1185 - 1186.

(2) Jean Hispanus.

(3) C.1187.

most obviously the relation between the animal and rational natures of man, as well as the question of God's attitude towards it as revealed in both written and historical revelation. For some theologians, polygamy, though not strictly or normally according to natural law, could be sanctioned by special direct inspiration from God. There is a glimpse here of the idea that in God's sight the end justifies the means, for the intention of the polygamy of the patriarchs was the population of the land with the faithful. There were even occasions when writers came near to allowing that on occasion it was within God's power to dispense with even the great moral laws, but this was not accepted too naively and was heavily beset with conditions so that God could not be accused of the vice of caprice. St. Bernard, for instance, distinguished between three degrees of immutability in the precepts, which were either stable, inviolable or incommutable. An example of the first were the ecclesiastical laws. These should indeed have as their end the reign of charity, but inasmuch as they did not they could be dispensed with or altered by those in authority. To the second group belong the divine laws relating to ethical action such as those in the Decalogue. "Thou shalt not kill," for example, was an inviolable law as far as man was concerned, but it could be dispensed with or altered by God in accordance with His best intentions. But

the third group of laws even God could not change, because they so expressed the essence and quality of God Himself that it was impossible for them to be revoked.⁽¹⁾ This division was never widely held, however, and theologians on the whole took the much simpler stand that the precepts of the first table of the Decalogue were unchangeable.

Nevertheless, as among canonists, there was a growing willingness to admit that only the general spirit or principle of natural law remains constant and that particular applications of it are too conditioned by circumstances to be invariable.

William of Auxerre⁽²⁾ was one of the most interesting writers of his day, and his thinking had much influence among Dominicans. He made new analyses and extended the terminology of the subject. By natural reason he understood that first fresh intuition of the mind which grasps both speculative and moral principles. He distinguished, therefore, between the speculative reason and the practical reason. In the moral sphere he separated the science of the principles themselves from the moral precepts which result from the intuition of them - scientia moralium praeceptorum que sequitur ex principiis iuris naturalis.

(1) "... quod divina ita constat et aeterna ratione firmatum, ut nulla ex causa possit, vel ab ipso Deo, aliquatenus immutari. Sub hoc genere est omnis illa Sermonis dominici in monte habit spiritualis, traditio, et quid quid de dilectione humilitate, mansuetudine coeterisque virtutibus, tam in Novo quam in Veteri Testamento spiritualiter observandum contraditur..." St Bernard: Liber de praeccepto et dispensatione, P.L.182, cap.2-3, col.863-5.

(2) c.1220 - 1225

William also stressed the innateness of natural law. Not only has God created man, he said, but God has created man in his own image. Man, therefore, can know God within himself, and, knowing God, understands justice. And he anticipated and answered the objection that such original knowledge is impossible by holding that experience and sensation are the condition and not the origin of knowledge. This innate knowledge of natural law is achieved by the synderesis, that superior part of the reason which also has a knowledge of the sensible world. In the latter the synderesis can be deceived by appearances, but since in the sphere of natural law its object is God or truth itself, it is there infallible. Its own purity and perfection in mirroring this truth William seemed to take for granted. However, he did distinguish the precepts of natural law from those of the Decalogue. The latter, he said, are to control our spiritual and supernatural destinies, the former to achieve moral and political virtues, which are a necessary basis of the supernatural.

William accepted the then traditional division into praecepta, prohibitiones and demonstrationes. Private property, therefore, is related to natural law through the demonstrationes. Common ownership may be more ideal, but can be applied only to the golden age of the past or to some utopian future. He used a

special term - ius naturale speciale - to cover particularly human institutions such as marriage. A further innovation was his distinction between different degrees of necessity in the precepts. Certain acts, such as love of God, are indispensable and of first necessity. Others, such as monogamy, which are not absolutely and intrinsically required but which are in the main essential to some further end, are only of second necessity. God can dispense with acts of second but not with acts of first necessity. Bad actions can be correspondingly separated into those which are bad in se and those which are bad secundum se. God cannot command man to commit such acts as usury, for instance, as they must be intrinsically bad. But acts which are bad in se, but not secundum se, such as polygamy and homicide, God may command when they are justified by a redeeming end. When so commanded, such acts can no longer be described accurately as theft, homicide and so on. According to these theories, therefore, fornication is absolutely forbidden, but homicide, as when God commanded Abraham to sacrifice Isaac, can be good.

To this Philippe the Chancellor⁽¹⁾ objected that the killing of the innocent is always intrinsically bad and, therefore, on the same level as fornication. Consequently, he argued, it

(1) d.1236

should be classified an evil secundum se. On the other hand, God is surely above all laws of nature and can command even such acts, bad both in se and secundum se, as His command to Abraham seems to prove.

Philippe also extended the technical 'jargon' of the study of natural law. He suggested that natural law could be considered from both the point of view of its naturalness - natura ut natura - and from that of its rationality - natura ut ratio or ratio ut ratio. God forbids fornication because, just as God cannot oppose himself, God's true morality cannot oppose the natural morality - natura ut natura - of marriage. But God can command acts contrary to natura ut ratio or ratio ut ratio, because it seems, reason is concerned not so much with the end as with the means of an act. Abraham, therefore, could be commanded to kill his innocent son and to have relations with a woman who was not his wife, since in each case the end was unadulterated. The command, according to Philippe, touched only the outward form or material of the act - dispositiones respectu materiae - and not its end - dispositiones respectu finis. There are important implications in such an analysis. God seems to belong to the world of 'nature' rather than to the world of reason. This would seem to leave little room for the exercise of human reason, so that it must become difficult for human beings to act rationally in harmony

with nature, natural ends or the will of God.

William of Meliton⁽¹⁾ sought to deal with the difficulty by suggesting that God can dispense with those precepts of natural law which are concerned with the relations between men but not with those between God and man.

One of the many Aristotelians of the time, Ronald of Cremona,⁽²⁾ held that natural law is the fundamental inclination of every thing to achieve its own fulfilment. In vegetables, animals and man the natural law is unique in that it is shaping each thing towards a particular goal. In man this principle rises into consciousness in the synderesis, which organises and controls all his tendencies towards this good end. The latter is not invariable for all men, however, for though monogamy is the ideal of the majority, a special purpose inspired the patriarchs to be polygamous. The fluidity of such a conception is, of course, useful.

Aquinas's teacher Albert the Great⁽³⁾ was much concerned with the part played by reason. He held that it is obviously more natural for man to be rational than to be irrational. For him, the essence of natural law lay in the principles: ius naturale non est nisi in principis ultimis iuris humani et est ipsa

(1) Lottin: Le Droit Naturel chez St Thomas d'Aquin et ses prédécesseurs.

(2) 1229 - 30.

pp.49 - 50.

(3) La Summa inédite de bono 'que Mgr Grabmann a prouvé être la troisième partie de la Summa de creaturis.' (Lottin, pp.41-2.)

principia. These fundamental principles are apprehended intuitively like the first axioms of the speculative reason. From them, by process of reasoning, arise the first deductions, such as the necessity for political authority and private property, and from these can be made further deductions which finally lead to moral rules. The more universal such rules are, the nearer they approach to the natural law itself, which exists in us as a habitus closely attached to the synderesis. Albert agreed with Isidore and Gratian that ius naturale commune est omnium nationum, eo quod ubique instinctu naturae, non aliqua constitutione habitus, which would seem to place the fundamental or central instinctu naturae of man in his moral sense rather than in his animal tendencies. Albert, on the whole, was rather hesitant about the relationship of natural law to divine law. He thought that natural reason in man is sensitive to the circumstances and the times in which it operates, and he agreed, therefore, that although common ownership would be appropriate to a state of innocence, natural reason allows that private property is appropriate to corrupt society.

Another analysis, made by John of la Rochelle,⁽¹⁾ separated natural law from revelation. John divided natural law into precepts given by God for the preservation of the individual, and precepts written in the heart of man which teach him to love God and to do unto his neighbour as he would be done unto.

(1) Summa de preceptis.

They are thus essentially directed toward the social and political harmony of mankind rather than towards man's religious sanctification. Only the revealed laws help him to realise this. In revelation John found confirmation of natural law.

A more radical thinker was St Bonaventure.⁽¹⁾ Of the definitions of natural law as quod in lege et Evangelio continetur, quod est commune omnium nationum, and quod natura docuit omnia animalia, he chose the last as the most precise and found the first least accurate. In his elaboration of the theory of the moral sense, conscience comes to the fore as a habitus closely attached to the practical reason. For Bonaventure conscience not only judges particular cases but grasps moral principles. Even in this latter activity, however, it is not wholly innate, for it has to make use of terms derived from sensation, memory and experience. There is only one exception to this rule; the concept that God should be loved is so much at one with the very light of intelligence itself that it is defined even in its apprehension. It is, therefore, utterly innate, simpliciter innatus. The synderesis, having been replaced by the habitus attached to the practical reason, is not rejected, but is understood by Bonaventure as another habitus. It is attached to the will and urges the will towards good. It is thus differentiated from the

(1) In IV. sent. D.33. Art 1.Q.1. in S. Bonaventurae Opera omnia referred to by Dom Lottin, p.50.

liberum arbitrium, which is morally indifferent.

To Bonaventure, natural law in its strictest sense meant that body of moral precepts which are the objects of both conscience and good will. He divided it into three parts. Firstly, there are some things, such as its own first principles, which are part of the natural law essentialiter. Secondly, there are things, such as natural institutions, which arise as conclusions from first principles, and these are part of natural law suppositive. And thirdly, there are all kinds of other things, such as positive law, which are particular and perhaps temporary.

These are part of natural law participative. Natural law, then is in evidence in a purer form when expressed in universals, but it is still present even when translated into positive laws and human institutions. It had become a spirit of justice governing many situations and conditions of life rather than a fixed set of rules, and this led to a significant tendency to identify natural law more closely with reason itself and to recognise, even if rather unconsciously, its creative power as well as its mere usefulness in tabulating eternal principles.

This understanding of natural law as a quality rather than as a rule or formal law also appears in the thought of Albert the Great. Human beings have to be prepared to believe that

sometimes what appears to be a wicked deed may be inspired by a right and goodly spirit, and as God desires a right spirit above all things, we have to accept that what may look like theft or homicide may be commanded by God for a good purpose. So, for Albert, Abraham's act of sacrifice was inspired solely by obedience to God, and God's command given solely for the purpose of shewing the world a supreme example of such devotion. Albert, therefore, adopted Philippe the Chancellor's distinction between dispositio respectu materiae and dispositio respectu finis, which meant that he had to adopt the principle that the end can justify the means. His interpretation of the Abraham and Isaac story consequently shews no trace of the concept explored by many recent commentators who, believing that a good deed must be good in both means and ends, consider that one of the main points of the story is that it shews firstly that obedience is the limit of the sacrifice required by God, and, secondly, that if man is willing to obey, God never demands anything intrinsically unnatural or bad as a means to even the highest ends.

It fell to the lot of Alexander of Hales⁽¹⁾ to sift and set down in his Summae Theologiae all the ramification of twelfth and thirteenth century thought on natural law. One

(1) Summa Theologiae, Para. 111.

of his main conclusions was that natural law, although it is made up of the first principles of the practical reason, is a created thing, and therefore cannot be the same thing as divine law, which is innate. Divine law is the seal, natural law merely the imprint.

Natural law Alexander saw as an image of the Trinity: the faculty is the image of the power of the Father, reason the image of the wisdom of the Son, and will the image of the love of the Holy Spirit. It is fundamentally a habitus rooted not merely in the reason or will but in the faculty itself. The law shapes or informs the faculty, reason enlightens the conscience, and the synderesis stimulates the will. It is indelible though overshadowed by sin. It can be elaborated, as it is adapted to particular circumstances, and its demonstrationes can be dispensed with. Alexander also accepted analysis of natural law according to its field of reference. It is naturale when it governs actions common to men and animals, humanum when it applies to particularly human affairs, and divinum when the latter are directly related to God. But although the first meaning can apply to other creatures than man in the sense that each has a law uniting its nature and destiny, natural law specialiter et proprie is a human conception realised in human nature, and

is most explicit in the pronouncements of human reason.

In the debate about the Decalogue, Alexander held that God can dispense with the laws of the second table but not with those of the first. The laws which bind God and man he thought unalterable, but those which concern human behaviour in the whole creation he thought God might alter & will because He had made the whole creation and had the right to do as He would with it.

The thought of the twelfth and thirteenth centuries thus became riddled with a superfluity of technical jargon. There was an almost destructive passion for analysis even of the most elusive experiences of mental and spiritual life, and it produced a convoluted tangle of definitions. This was partly the result of a genuine search for the roots of truth, which were nevertheless sometimes rather prematurely discovered or invented, and partly an attempt to satisfy the human mind's uneasiness in the face of mystery and ignorance. Unhappily, some of the deepest mysteries which grace human existence, particularly those at the very centre of it such as God's purposes and the nature of the human mind, were sometimes superficially covered by a confusion of words or summarily shuffled into place by the seeming omniscience of man.

The thinkers of this time, of course, had to work without the knowledge of the depths and uncertainties revealed by modern psychology, and they were comparatively unaware of the complexity of the energies and the incalculable repercussions at work in human life. Anthropology had not exhumed the basic skeleton of man's animal ancestry nor shed light on the fantastic superstitions and the pathetic darkness and stupidity of his savage state, and so cast doubt on the distinctive holiness of his origins. Modern criticism had neither disillusioned these

men nor invited them to discover what might turn out to be the deepest significances of the Scriptures. A static formalism, therefore, seemed wholly credible. In such circumstances ignorance in some directions may account for certainty in others. There were times when an occasional confession of ignorance or uncertainty, or the leaving of a problem open to further investigation or to more urgent prayer might have been more seemly, humble and wise.

The understanding of the psychological roots and the philosophic content of the doctrine of natural law is certainly of great importance in the history of western civilization, and the thinkers of the twelfth and thirteenth centuries were the pioneers. Only by examining its foundations can one assess whether they are sound enough to bear the strain of the eminence claimed for it and to justify the part it was made to play in politics. The importance of this role has been strongly stated by Troeltsch:

"... the fiction of a Christian natural law, which makes it possible to regard the State and Society as though both were ordered by one Christian Law, will be the means through which it will become possible to speak of a Christian unity of civilisation at all, and it is this alone which makes men able to believe in such a possibility. This Christian Law of Nature will also likewise provide the daughter churches of Western Catholicism, Lutheranism and Calvinism, with the means of regarding and shaping themselves as a Christian unity of the civilisation. The Christian theory of natural law, in which the pure natural law of the primitive state, the entirely opposite relative

natural law of the fallen state, the positive law, which often included the greatest abominations, and that true goodness which in spite of all these ideas of natural law, is the only source of the supreme power of the theocracy, were in continual conflict... as a scientific theory it is wretchedly confused, but as a practical doctrine it is of the highest importance for the history of civilisation and of social evolution... it is the real ecclesiastical doctrine of civilisation, and as such it is at least as important as the doctrine of the Trinity, or other fundamental doctrines..."(1)

It is difficult to see how such a wretchedly confused scientific theory or fiction could be transfigured into such a powerful practical doctrine. By what might alchemy? Were its wretchedness, confusion and unreality outgrown, or were they actually enlarged and complicated by growth? Or, by being translated into practice, did it receive and accomplish a new fulness of life no theory can ever have, so that its new dimensions allowed for a harmony and realised a truth and completeness which could never be contained within the cramping limitations of an abstraction? The phrase a 'practical doctrine', although its meaning is more or less clear, goes some way towards allowing that "whatever is is right", and this position, with its trace of existentialism, seems to have been put forward as a ground for further rationalisation. It is important, therefore,

(1) The Social Teaching of the Christian Churches, Vo.1. p.160

to find out to what extent it could and did link God and man, Church and state and heaven and earth, and to what extent it was just a useful fiction giving the imprimatur of its empty authority to this or that institution, pope, emperor, law, reason and to nature itself. It is likewise important to find out the extent to which its widening comprehensiveness was related to its closer identification with the law of reason as understood by man, for this identification might well shew up as much of conceit as of genius.

At best, the theory of natural law acted as a compromise, and like most compromises it was morally ambiguous, involving a confusion of good and evil in which righteousness and sin sat uncomfortably or happily side by side, but nevertheless threatening each other. The worst effect of such a confusion was hypocrisy, but the confusion may also result from an honest realism which refused to trim the facts to make them fit into the limitations of human theorising, and such an attitude might lead to the possibility of understanding, reconciliation, even sanctification.

Of the influence of the theory in the history of civilization and social evolution there can be no doubt, as Troeltsch says, but it does not follow that the influence has always been the best possible one. And if the nature of that influence itself is

questionable, it is only natural to ask how far this may be related to degrees of truth and corruption in both theory and practice. There is a respectable solidity in the 'undoubted incident that actually occurred,' for its energy in having come about at all argues its effectiveness and its mere existence give it an air of inevitability. The tendency has been for historians to remake the past in such a way as to shew that the race has been moving forward. Everyone, of course, has benefited from the accumulations of the past and everyone is somehow rooted in it, shaped by it and to some extent made to see life in its terms. It has become almost a habit of mind that all hope for future progress should be grounded on the demonstrated progress of the past. But for obvious reasons this plotting of a progress is a very selective operation. Only those movements, organizations, schools of thought and individuals which have achieved powerful domination can qualify for places in the line of direct succession, and in order to keep this line more or less straight it has been necessary to simplify and tabulate the diffuse and eccentric. The evolutionary pattern of history, therefore, can be very inaccurate where spiritual, intellectual and imaginative things are concerned, for these are often most powerful when most invisible to plotters of progress. The latter, in their devotion to the past, can come close to a form of ancestor worship which

may blind them to those perhaps better things which have failed to fall into line, and which they can dismiss as merely utopian, and so they do not weigh the fact that occurred against the possibilities open at the time. But once the strait-jacket of evolutionary progress, with its conceit of inevitability, is cast aside, it does not seem impossible that, if past events had fallen out otherwise than they did, the whole of what is now called "the legacy of the past" could have been richer. It would seem hard, for example, to rule out the possibility of a more evolutionary evolution and a more progressive progress. Despite all the weight that has been given to it, therefore, it is not beyond question that natural law was the only influence which could have reconciled the Church and this world, and that it alone could have created the civilisation we know, and which we perhaps overrate. It is even possible that its binding spell got in the way of something better, and robbed the world of a more civilized civilization.

Although it is in a way incidental, the most important aspect of the doctrine of natural law may well turn out to be that it shews up so much of the psychology of man, his dishonesty, his incoherence, his power to make unreality fruitful, his greatness, his uniqueness, and his hopeless and astonishing ambiguity. As the doctrine of natural law has been expressed through such bewildering qualities, a Christian evaluation of it can be reached only by looking at it in the light of a Christian understanding of human nature.

CHAPTER SIX

THE NATURAL LAW MORALITY OF AQUINAS

Aquinas developed the psychology of morality as far as was possible in his time. In his attitude to the fall he looked upon original sin 'as a loss of privilege, not as a radical corruption of nature.'⁽¹⁾ It was a defect of nature which all men share but for which they are not individually responsible.

For Aquinas, the essence of human nature, for redeemed and unredeemed alike, and that which distinguished it above all from other things, was its rationality, and this, he believed, was the seat of morality. His understanding of the workings of morality owed much to the subdividing of reason which had been

(1) T. Gilby: Between Community and Society, p.140.

practised by his predecessors in medieval psychology and in fact he himself contributed nothing original. Mqr. de Solages, it may be recalled, ⁽¹⁾ went so far as to complain that Aquinas looked upon war as an individual matter rather than one of politics and natural law. For Aquinas, however, natural law was the bridge between individual and social ethics and he naturally looked upon it from both points of view, and indeed, grounded his natural law teaching on the psychology of the individual human being. To understand how far Aquinas's teaching holds good for his relation of it to individual and political aspects of warfare and how far it can be harmonised with Christianity calls for careful consideration of it as a whole.

Aquinas accepted the growing tradition of connecting natural law with the synderesis. ⁽²⁾ For him both are wholly the creation of God and therefore perfect and unalterable. The natural law is made up of all the first and universal principles of moral action, whereas the synderesis is that 'part' of the mind particularly responsible for and adapted to their recognition. In his earlier works it is not clear whether Aquinas regarded the synderesis as a simple habitus, or disposition, as innate as anything dependent for its full expression and realisation on the medium of

(1) See above, pp.50-51.

(2) Commentary on the Sentences of Peter Lombard, 11.Dist.24.Q.2.

See also Dom Odon Lottin: Psychologie et Morale ^{Art. 314} Aux XIII^e et XIV^e Siècles, Tome 11.pp.222-224.

accumulated experience and memory can be; or whether he understood this habitus as so necessarily accompanied by as to be identifiable with a power or faculty. The opinion of Dom Odon Lottin⁽¹⁾ is that in his earlier works,⁽²⁾ and largely out of respect for his predecessors, Aquinas accepted the latter interpretation, but that he later decided that it was a habitus only. The problem is discussed further in De Veritate,⁽³⁾ and although there the fifteen replies to objections affirming that the synderesis is not a faculty might appear to guarantee his disagreement, five further contrary objections were left unanswered. Dom Lottin concludes that although Aquinas frequently referred to the synderesis as a potentia cum habitu, he showed a greater preference for its simpler designation as a habitus only, and in the Summa Theologica freed himself from tradition as a whole, and followed the lead of Pierre de Tarantaise.⁽⁴⁾

Reason, then, is a single faculty, yet in its activity, it can be divided, or considered diversely, according to the nature of its object. When it is contemplating or discovering intellectual truth, it can be called speculative reason; when it is considering the moral qualities of human actions, its name is the practical reason. There are thus two dominant dispositions in the human⁽⁵⁾

(1) Odon Lottin: Le Droit Naturel Chez St Thomas D'Aquin et Ses

(2) 11 Sent. D.24 Q.11. Art.4.

Prédécesseurs, pp.68-72

(3) Q.16. Art.1.

(4) p.71. Also see Psychologie et Morale Aux et XIIIe Siècles, Tonnell.

pp.229-30.

(5) S.T.1.Q.79. Art.12.

mind, the intellectus, habitus of the first principles of the speculative reason, and the synderesis, habitus of the first principles of the practical reason. In this Aquinas was guided by the Aristotelianism of his teacher Albert the Great.

Both the first principles of the speculative order and those of the moral order are concerned not with the recognition of immutable things, which is the work of yet another reason, the 'superior' reason, but with that of the immutable aspects of variable things, which are, in fact, the necessary relationships which connect their essences. Since both are so concerned it is surprising that Aquinas did not here discuss their own mutual relationship. This distinction between the speculative reason and the practical reason indeed seems significant. Unless both can function simultaneously, and can thereby be proved inseparable in function, it suggests that during his intellectual exercises and researches man's moral awareness is temporarily in abeyance; it might even be claimed that today this has been proved, for man's intellectual power often appears to have outwitted his ability to control it morally. In any debate as to whether the speculative reason or the practical reason should, at any moment, be employed, some higher part of the reason must presumably decide, otherwise man's intellectual

life would be granted precedence over his moral life, or vica versa. And, indeed, if some higher part is employed, it would likewise suggest that morality is not the supreme human consideration.

In any case, it is assumed that moral considerations, or moral consciousness, need only be spasmodic, and that intellectual activity does not need to be morally conscious in itself. Since reason is characteristic of man, intellectual activity must be the goal for which he was created. However, if a more complete practical activity of 'doing good' in the widest sense is the real end of man, towards which reason only helps, reason cannot be so valuable as the 'spirit' or 'impulse' to do good. The identity in fact of the speculative reason and the practical reason suggests that the practical reason must work according to the same logical or scientific rules as does the speculative reason. (1)

(1) This raises the question of the morality of faith and the immorality of lack or imperfection of faith. Faith is regarded as a gift from God, yet, apparently paradoxically, absence of faith is a sin. Although truths of faith are beyond reason, the speculative reason must have to assent to them insofar as it guarantees that they do not contradict itself, and there surely must be some similarity between this honesty of mind and honesty in moral matters. Yet conscience presumably has nothing to do with the intellectual side of religion. For the Roman Church, however, morals are based on and firmly linked to dogma, and one would expect the Church to take the same attitude towards both. Yet by laying down dogmas, firmly and infallibly for all with such absolute authority and assurance the Roman Church leaves the individual no room for the exercise of his conscience about such questions, since any Catholic who 'has the faith' is not in a position to doubt. At the same time the Church holds that moral matters are in the last resort left to the individual conscience.

The synderesis, although by tradition logically separable from the practical reason, so informs its first principles that it can be considered as residing in them, and being as much united with them as is an outline with the thing it defines. The first principles of the natural law are given by God in the firm shape of commands or prohibitions, human language and thought expression presumably helping, rather than hindering, their transmission. Grammatical syntax and the power and explicitness of words are not regarded as in any way hindering the fullness of their truth.

Although the basis of the practical reason, first principles are not rational conclusions but are self-evident and intuitively apprehended; reason, contemplating them and comparing them with itself, is satisfied as to their perfect truth. ⁽¹⁾

The synderesis is not identical with conscience, for the latter is responsible for the particular judgements of the practical reason, which are arrived at by deduction from the universal principles established by the synderesis. The process of deduction is syllogistic, the first principles standing as the majors of a 'practical syllogism', and the superior or inferior reason as the minors, the conclusion being the work of conscience. ⁽²⁾

De Ver. Q.16. Art. 2.

(1) II. Sent. D.24. qu.2. a.4.
II. Sent. D.24. qu.2. Art.4. Also see Psychologie et Morale Au
 (2) XIIe et XIIIe Siecles. Tome II. pp.225-7

The synderesis cannot sin because it is that part of the mind in direct contact with angelic natures, and it is subject to no corrupting influences because it is also, as it were, protected by the closed circle of its self-sufficiency. Nothing can contradict the palpable honesty of self-evident truths. Yet in spite of the fact that it is excluded from the possibility of sin, being as innocent and inevitable a part of human nature as a heart-beat, the efficacy of its judgements can be affected and even hindered. It is possible, although the synderesis is not an act, to distinguish between it in itself and in its exercise. In itself it can never be extinguished, for it has the nature and form of the soul itself, but in its exercise it can be subject to frustration. ⁽¹⁾

This conveniently, though somewhat dubiously, allows for the possibility in some men of ignorance of even the first principles of natural law, as well as for varying and sometimes contradictory basic moral perceptions. At the same time, however, it maintains the absolute universality of natural law, in so far as everyone has the possibility of knowing absolutely what is right, and how he should act, even if he is not strong enough to obey such knowledge.

Conscience itself can make mistakes and form wrong conclusions,

(1) ibid.

or a false minor supplied to a syllogism by the superior or inferior reason can lead it astray.⁽¹⁾ The will, helped or hindered by emotion, decides whether to be directed by the judgement of the conscience as it establishes a unique or particular or conventional form of conduct. Conscience is an act of reason, unlike the synderesis, which is a habitus, though conscience too is a purely rational judgement dependent only on knowledge, whereas the decision of the will is tempted or strengthened by passion or feeling. It is presumably the will also which allows for the frustration of the synderesis. This particular relationship between the will and synderesis is found also in the thinking of St Bonaventure.

Conscience allows of distinction between the 'psychological conscience', which witnesses to the simple existence of a fact, past or present, and the 'moral conscience' which considers or judges the morality of an act whether it has already taken place or whether it is anticipated. This corresponds to the via inveniendi of the speculative sciences, whereby on the one hand we deduce conclusions from firm principles, and on the other, by means of the via iudicandi we start from the conclusions and rediscover principles.⁽²⁾

Apparently conscience can have no jurisdiction over natural

(1) De Ver. Q.17. Art. 2; S.T.1.Q.79. Art. 12 - 13.

S.T.1. 11. Q.94. Art. 1. in corp; ad 2; S.T. 1.11. Q.47. Art.6. ad.1. ad.3.

Psychologie et Morale Aux Xlle et Xllle Siècles. Tome 11. pp. 232-3.

law itself, even though, because of the frustration of the synderesis, a man may not apprehend the true principles of natural law. It is, in fact, wholly dependent on it for its judgements, but in judging acts it is judging the work of the prudential reason,⁽¹⁾ another 'department' of reason which busies itself with discovering the correct means for the achievement of the ends supplied by natural law. These means might be such things as the unique acts of an individual, or political judgements or laws.

The two main dictates of the natural law are known intuitively. These are that one must seek and perform the good and avoid evil, and that one must act in accordance with reason. The guide and the goal of moral action is reason, and this is identifiable as the height of human goodness.⁽²⁾ But the term good must be qualified. Subjective definitions of what is good are not reliable or adequate. Only that which is objectively good, that is, purely and perfectly rational, is a justifiable end. And to act in accordance with prudential reason alone is not sufficient either. Father Copleston makes a distinction, which is not in Aquinas but which must be in accordance with his meaning, between reason and 'right reason'. He points out that both a burglar and a seducer could claim to be acting rationally in that they take appropriate means

(1) "Synderesis mouet prudentiam". (S.T.11.11.Q.47. Art 6.)

(2) S.T.1.11.Q.94. Art.2. "... ad legem naturae pertinent ea ad quae homo naturaliter inclinatur; inter quae homini proprium est ut inclinatur ad agendum secundum rationem." S.T.1.11.Q.94 Art. 4.)

to achieve their ends, and he implies an interesting identification of the practical reason and the prudential reason when he suggests that the reason which does not accurately apprehend the true objective good for man cannot be properly fulfilling its function of dictating the means necessary to its achievement, or, in other words, that the prudential reason is morally ineffective or unjustifiable if the practical reason and the speculative reason which here must have to supply information to it, err.⁽¹⁾ He does not however seem aware of the consequences of his implication, for since there is this distinction between reason and right reason, and since it is admitted that 'false' or wrong reason can perfectly organise and achieve the means necessary for the fulfilment of its goal, and that it fails only in misunderstanding the true nature of this goal,⁽²⁾ it would seem that the understanding of good is to some extent outside reason itself, and quite apart from mere rationality. In the phrase 'right reason', reason must be understood as a means to a good which is to some extent outside itself. Otherwise reason would surely always be its own sufficient end. The good, therefore, can not be identified with rationality, which needs to recognise and understand the good before it can become the means of ministering to it. It would seem then that as

(1) Aquinas, pp.294-5.

(2) There seems to be some analogy with the proofs of God's existence. If the proofs are to have any value God must mean something; if the natural law has any value, good must mean something, and ought to be intuitively understood since it is part of the first precept.

the first principles are intuitively understood, and as reason by itself cannot know the final end of man, reason is almost wholly concerned with means. Nevertheless, it is a sin for man to act against his conscience, however misguided or wrong its judgement, (1) and this supremacy of conscience has always been upheld by Roman Catholicism. (2)

In a chapter on the supremacy of conscience (3) Father Lorson draws attention to what he calls the common Protestant misunderstanding that the Roman Church holds its own authority above that of conscience. The notions that the Roman Church overlays conscience with prescriptions and traditions, and values blind obedience more than free choice he seeks to disprove from Romans XIV.23, (4) Ecclesiasticus XXXII.22 (5) and from the writings of eminent Catholic theologians who place conscience above law, theology, priests and popes. Joan of Arc, for example,

(1) "Every conscience, whether it is right or wrong, whether it concerns things evil in themselves or things morally indifferent, obliges us to act in such a way that he who acts against his conscience sins." (Quodlibetum 3.27)

(2) Henry Davis; S.J. Moral and Pastoral Theology, p.7.
Rt. Rev. Dr J.G.Vance; Freewill in C.T.S. Pamphlet July, 1939.

Pope Pius XII: Encyclical: Summi Pontificatus, 1939.

Cardinal Gibbons: A Retrospect of 50 Years.

"Whatever is done contrary to conscience leads to hell." (Innocent III: Decret; Lib.II, cap.III.)

(3) Lorson: Un Chrétien Peut-il être Objecteur de Conscience, pp.93-109

(4) "Happy is he that condemneth not himself in that thing which he alloweth."

(5) Ecclesiasticus. XXXII. 23. In every good work trust thy own soul; for this is the keeping of the commandments.

was canonized for following her conscience against judges, theologians and priests.⁽¹⁾ The scholastics, indeed, taught that Catholics should suffer excommunication and death rather than thwart conscience.⁽²⁾ And Father Lorson recalls the words of Newman:

"If I had, which assuredly would hardly happen, to propose a toast at a banquet to the honour of religion, I should certainly drink to the health of the Pope, but don't misunderstand me, first to the health of the conscience, and then to that of the Pope."

Two judgements, therefore, can be passed on any act with regard to its morality. It is right and good insofar as it is in obedience to a man's own conscience, though it may be wrong or evil if measured by objective standards. And it is quite clear that the first judgement is infinitely more important than the second. For Roman Catholics today, as for Aquinas, conscience is the supreme and final moral criterion. All other considerations, such as the opinions and judgements of others, even those of the Church and of Jesus, have to be taken into account and allowed full weight, and another moral judgement may be made later on a man's decision and action, but the supremacy of conscience proves before everything that to Catholics the source of all true, genuine morality is in the individual.

(1) Otto Karrer: Die Freiheit des Christenmenschen, Benziger, p.76. quoted by Lorson, p.95.

(2) Dr Johannes Hessen: Luther in Oekumenischer Sicht, p.65; quoted by Lorson, p.99.

Before considering the content of this natural rational law it is important to mention the remaining psychological forces, tendencies and inclinations which help to create the true nature of moral action. The will is vitally important. It is defined by Aquinas as an intellectual or rational appetite by which man desires, quite naturally and inevitably, that which the reason holds before it as good.⁽¹⁾ The will is partly, but not wholly, free, for it is already, by its very nature, inclined and determined towards 'the good', or rather, towards what reason acknowledges as the good. There is a greater attraction, then, between the will and what reason determines as good, than between the will and what really is good. And yet if the really good were the really rational, the will, in being inclined towards the really rational, would be inclined towards the really good. There is no suggestion that the will, in its inclination towards the good, ever quarrels with an erring reason.

Man's understanding of 'the good' varies, and so the will apparently, swerves between lesser and greater goods. The natural law itself, which decrees so absolutely that 'good' should be done, has, when unenlightened by revelation, no knowledge of what is the supreme good for man,⁽²⁾ that is, the possession of God.

(1) S.T. 1.Q.80. Art.2; 1.11. Q.1. Art.7; 1.Q.20. Art.1.

(2) It is true that religious inclination is included in the basic tendencies of natural law, but even so the knowledge of God which it gives is negligible! Inasmuch as all seek the good in the possession of which happiness lies, all can be said, in an interpretative sense, to seek God. But this does not mean that every human being consciously seeks God, which would be patently untrue. If God as He is in Himself were revealed to us, it would be impossible for the will not to go out towards Him. But God

The supreme good for the natural law is reason and rational behaviour, or the rational organisation of the development of man's potentialities. Aquinas, in suggesting that the inclination of the will is always towards 'the good', and in acknowledging that man, in his ignorance and his sin, calls many things, some of which are in fact, evil, 'good', because they are at least thought of as 'meeting or fulfilling some need of human nature or as actualizing and perfecting some potentiality of human nature', (1) implied that the will is unintelligent, morally blind and indiscriminate, and perhaps a slave to its own gullible passion or impulse towards a false good. For whatever reason holds before it as 'good' draws it like a bait or magnet. The will is essentially weak; it has a weakness for 'the good'. At best it is a morally neutral power and inevitably backs up the judgement of a wrong reason as strongly as that of a 'right' reason. This is confirmed by the fact that even when the will is attracted by two goods, a greater and a lesser, it does not necessarily choose the former. (2) A man often chooses quite deliberately what he admits as an apparent and lesser good, which may be a real evil, in opposition to what he knows to be the real supreme good.

is not so revealed to us.... We do not possess that vision of God which alone would exercise an inevitable attraction on the will.'

(F.C.Copleston: Aquinas, pp. 181-2)

(1) F.C.Copleston: Aquinas, p.180.

(2) S.T.1. Q.19. Art. 9. Also see F.C.Copleston: Aquinas, pp.183-6

The fact that the will must always be able to apprehend the object of its desire and action as 'good' was not to Aquinas a sign of the essential hypocrisy or even hedonism and self-deception of man, but of the fundamental drive behind all conscious acts of will, the drive towards self-fulfilment, self-development and perfection, and happiness. This impulse, however, does not involve or contain any explicit conception of man's objective and real good; for as has been seen, the will is not driven by an impulse which is set towards the greatest or greater good rather than the lesser, and there is no proportionate relationship between the degree of goodness in an object and the strength of the impulse driving the will towards it. This in itself would seem to suggest that this fundamental impulse is morally useless; the will also is neutral and reason without power. The law of nature, even when apprehended in its purity and perfection, has no power to compel obedience, and reason appears to be often employed in persuading man that his actual drive towards inferior things, or even bad or destructive things, is in fact a striving for perfection. Human language is so relative that an inferior good may easily be identifiable with an evil. The will is not necessarily attracted by the good at all.

Nevertheless Aquinas elsewhere insisted said Father

Copleston that the will is

"... necessarily set towards the final or ultimate good as such and that it is under the impulse of this dynamic and innate orientation of the will that we make our particular choices." (1)

Aquinas was able to say this presumably because of his conviction that God is so much the ultimate goal of things that all things, after however many deviations, will finally rest in Him. But it leads to a very different idea of the will from that which he gives in other parts of his works, in which the will is shewn to be utterly dependent on reason for guidance, and even so is just as likely to choose evil as good. Here the suggestion is that of its own accord the will works towards what is good, and is therefore more adequate than reason which does not know the good in its fullness. It has no knowledge of God, who is man's true and final end, even though it might point towards God as such an end. For even the metaphysical knowledge of God which in itself is not immediately available to every man, teaches rather what God is not than what He is. The ultimate knowledge of man's end is given only in revelation or in the mystical vision of God after death, and reason is certainly unable to shew us this good in such a way that the will is compelled to follow and accept it.

(1) F.C.Copleston: Aquinas, pp.195-6. Nevertheless the 'ultimate good' is capable of varying interpretations: "But since there is neither an innate idea nor an intuition of the supreme good in the concrete, people's ideas of what constitutes the supreme good or final end can be, and indeed are, different..." To find the ultimate good or final end of man we have to turn to the supernatural vision of God, which is attainable only in the next life." (F.C.Copleston: Aquinas, pp.196-7.)

The supernatural good, which is also the real good, is certainly inaccessible to reason, but even the natural good, that is that man should perfect himself and fulfil all his potentialities, can still not be translated into anything fully explicit.⁽¹⁾ We may have some reasonably clear idea of certain worthwhile tendencies in human nature, but even so our understanding of them is very imperfect, and the task of synthesising them without a guiding and integrating end is something about which it would seem impossible to dogmatise.⁽²⁾

(1) "... the good is indeed undiscoverable if by good is meant the good of the hedonist. But the same cannot be said of the eudemonist. We have at least a hazy notion of what human nature is (using the word nature in its metaphysical sense; the common specific possession of all men); we have in consequence some idea of that towards which it naturally tends; we cannot doubt that health, wisdom, virtue, are the proper objects of activity, the proper term of growth." (Gerald Vann: Morals and Man, pp.77-8)

"It is less difficult to say what the creation of the perfected personality is not, in any given individual, than to say exactly what it is - It is not, first of all, the perfecting of anyone element to the exclusion of all others... it is not the perfecting of all potentialities without regard to the well-being of the whole. It is not a question of mere 'self-expression'." (Ibid., p.93)

(2) "We have reached a scheme of things in which every side is viewed. But would it work in practice? The knowledge of God possible to reason alone is so meagre that, since love depends on knowledge, the God-motive would in practice, in the majority of cases, be either non-existent or at least very weak. Almost certainly the synthesis would split up. In St. Thomas's completed scheme, when he speaks as a theologian, this danger is absent... revelation opens to us the mind of God..." (Ibid., p.101.)

"If morals are divorced from dogma... the christian life ceases to be a life, a growth, a process, and becomes instead mere conformity to a code." (Ibid., 67.)

It is clear, then, how essential for Aquinas's doctrine of natural law is the ability of reason to apprehend man's goal. The difference between 'right' and 'wrong' reason is that the former does so, whereas the latter mistakes for it lesser goods. But this apprehension of the true end of moral action is something which reason can never except by accident, achieve by itself. Man then never has a 'right' reason. It appears to be generally admitted that only in so far as the law of nature is integrated with revelation does it have any specific moral value. In itself it is little more than descriptive of the status quo, and as a directive has little more value than the advice that one should keep on breathing in order to stay alive.

Aquinas made a distinction between on the one hand, actus humani, those acts which are the deliberate work of reason and will and which involve the conscious determination of the will towards an end approved by the reason as good and on the other involuntary or unthinking acts. ⁽¹⁾ Only the former, whether interior or exterior, can be truly moral.

Yet Aquinas recognised that man can arrive at a correct conviction that an act is good or bad without necessarily going through the process of logically assessing its compatibility with reason, and that on occasion man can understand immediately

(1) S.T. 1.11.2.1 Art.1.

or feel rightly, that an act is good or bad, and that this half-instinctive or intuitive reaction of men towards the moral quality of certain actions is indeed indicative of a natural and innate understanding of moral truth. But he would maintain that we should distinguish between the way in which a person comes to believe or recognise that an act is wrong and the objective reason why it is so. Objectively any bad act must be analysable as not in conformity with reason. Aquinas, then, did not mean by a 'thinking' or 'deliberate' act, one which is the outcome of a clear and consecutive logical process. Nevertheless, an element of mental recognition or consciousness of the act as good or bad must be present. Father Copleston argues that although some such acts might be described as being 'felt' rather than thought to be good, Aquinas would have insisted that mental activity is involved.⁽¹⁾ He also maintains that Aquinas understood that not only profound thought and reflection but also other psychological factors must help man in determining all the secondary rules of natural law, and in applying such to individual cases; any genuine moral decision must be made by the individual himself, and he may 'see it' or 'feel it' as objectively good apart from any process of logical calculation. Nor would he be helped necessarily by the brilliant reasoning power of an outsider, even were the outsider a moral philosopher. But Father Copleston emphasises that even if the man

(1) Aquinas, pp.224-5.

were unable to give reasons for his decision which would satisfy a philosopher, his prudential reason would, in fact, have enabled him to reach it. And if it were a good decision it would stand the test of rationality. ⁽¹⁾ According to Father Copleston's interpretation of Aquinas, not only is a man's understanding of what is 'good' dependent on his natural inclination to pursue whatever is satisfying to his own being, but it must also be the result of experience, even though he may never consciously or explicitly formulate to himself the law that good is to be pursued and evil avoided. In defending this interpretation against the objection that it is lowering man's moral behaviour from the rational to the instinctual and emotional realm, he claims that the general principle can be presupposed or induced from the fact that man, in particular instances, is conscious that he avoids what he thinks of as evil and pursues what he thinks of as good. But it is admitted that the law of nature in general may remain unconscious.

The difficulty with this admission is that something other than reason is brought into the picture, and made central. Such mental processes as intuition, feeling, and unconscious understanding of what is right are hardly compatible with the strictly syllogistic logic outlined by Aquinas, and 'intuition', although it has often

(1) Ibid., pp.225-6.

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been described as reason working at lightening speed, has in fact never been fully analysed. It must be connected with that extra-sensory perception which is today the object of continuing research, which cannot yet be fully explained in rational terms and which cannot, therefore, always be proved compatible with reason. Hunches often defy logic and even common sense, and yet prove themselves right. If rationality is stretched to mean a mental registration of complex psychological factors and processes, it ceases to have much to do with logic as such. Such moral judgements as Father Copleston tries to defend against the charge of 'emotionalism' or 'instinctualism' on the grounds that they can always be proved compatible with the strict logic of reason, are not always susceptible to such examination.

Reason is not always able to analyse such hunches or to guarantee their validity. In making an appointment, an interviewer may have an intuition that the less rather than the more qualified person should be chosen, but reason can never know whether the intuition was right or wrong. According to revelation natural inclinations are likely to be very doubtful criteria, and the specific experience needed to make reliable moral decisions is always likely to be lacking. Certainly Aquinas did not allow other factors such as imagination, subconscious forces and drives,

intuition and feeling, authority comparable to that of reason; he did not allow them to decide for themselves, and in their own ways, the moral worth of their own activities. They cannot, therefore, by themselves, achieve goodness. The 'god' of man's mind is that integrating power of concentration which organises all faculties to its own supreme and according to its own dictates, and which operates, although unconsciously, as the 'practical reason'.

Father Copleston's explanation of how Aquinas understood the derivation of the secondary from the primary principles of natural law also undermines its strict logicality. The principle that good must be done does not contain logically within itself the command that adultery, for example, is wrong. It is rather the rational reflection upon our experience of human life that leads the mind to define the second principle as in conformity with the first. And the more particular the precept, or the judgement of natural law, the easier it is for ignorance, misunderstanding and error to creep in.

Sums get harder as they get more complicated, and it would seem true also that human experience introduces into moral problems, elements which make the latter less easily answered by rationalism alone. There seems no absolute reason why, in those societies

where women outnumber men by thousands, reason, reflecting on the situation, should not decide that polygamy is desirable. In a situation where a husband is being tormented by a neurotic wife, reason might well decide that divorce is the best solution. Reason reflecting on experience is likely to result in widely varying, and sometimes contradictory, secondary precepts.

This power of non-rational apprehension of something as in accordance with reason is, presumably, explicable in terms of Aquinas's theory of habits. He found inchoate habits in the cognitive powers, and the understanding of the first principles he called a natural habit.⁽¹⁾

In opposition to innate bodily predispositions, the acquired habits in the intellectual or sensitive parts of man are built up by use and practice. The repetition of similar acts or thoughts, makes it easier to think and act quickly and perfectly in certain ways and in certain circumstances, and the physical dispositions also help or hinder the ease with which men can be virtuous in various ways.⁽²⁾ A practised and accurate practical reason would be able thus to make moral judgements with speed and wisdom. Other good habits, the virtues, help man to act easily and naturally in accordance with reason.

(1) S.T.1.11.Q.51. Art.1.

(2) S.T.1.11.Q.51. Art.3.

In spite of the fact that speculative reason and practical reason are in fact one and only called differently in so far as their objects differ, intellectual virtues are, in one important sense, unrelated to moral virtues. An expert mathematician, for instance, may be proud and over-indulgent.⁽¹⁾ It would seem, therefore, that although intellectual virtue or eminence must involve prudence and reason there is no necessarily proportionate relationship between the latter and moral virtue. The proper maturity and development of the habits is what enable us to act in a somewhat spontaneous manner, and it is these habits which prove that to act in accordance with reason does not necessarily involve being painstaking and deliberate.

Emotions are just as much part of a moral act as reason, will and the virtues. To Aquinas, emotions and passions were, in themselves, morally neutral, their goodness or badness depending on the degree to which they strengthened or undermined reason and will. Emotions obviously seek some satisfaction or other; only the successful repression, organisation and encouragement which reason and will inspire can bring these emotions into conformity with the objective good for man, and the perfection of an act is possible only when this control is complete and when the emotions strongly support the reason. Although there is virtue in an act

(1) F.C.Copleston: Aquinas pp.207-8. He points out, however, the importance of prudence for the moral virtues.

which is performed in a state of emotional frustration or conflict , an act becomes morally superior when a man's whole being wholly and happily wills and desires it.⁽¹⁾ There is, indeed, a sense in which the desire which moves the will is identifiable with the emotion of love.⁽²⁾

Aquinas distinguished between interior and exterior acts. Every human act involves the judgement of reason and the determination of the will, but not every interior act leads to an exterior act. When Aquinas considered the morality of a human act however he thought primarily, though not entirely, of interior acts. The basic intention and purpose of an act in the conscience of the man performing it is of first importance in assessing its morality. And every concrete human act is, according to Aquinas, either bad or good, though it is not possible to make an abstract judgement of every isolated act as such. To be of moral value an act must be intentional, deliberate, and informed by a purpose,⁽³⁾ which suggests that a situation from which these factors have been eliminated is no object for a moral judgement.

A bad intention, or even absence of a good intention, corrupts the whole act even though externally, or objectively, it is blameless.

(1) "It pertains to the perfection of moral goodness that a man should be moved towards the good not only by his will but also by his sensitive appetite." (S.T.1.11.Q.24. Art.3.)

(2) "The first movement of the will and of any appetitive power is love." (S.T.1.Q.20. Art.1.)

(3) S.T.1.11.Q.18. Art.9.

The intention belongs to the interior act which, by the analogy Aquinas made with the hylomorphic theory, is the 'form' of the whole act. The exterior act is the 'matter'. If a materially good act is done with a bad intention, the whole act, in both aspects, is morally bad. (1) The action of giving to the poor may be materially good, but a bad intention gives a 'form' to the individual act which makes it morally bad. (2) Intention, apparently, is identifiable with the will in its relation to a rationally justified end. Nevertheless, goodness of intention does not in itself make an act good. (3) A good act needs to conform to right reason in order to be objectively good, but a right intention is not identifiable with right reason. This would appear to be important in considering the relationship between means and ends. It is not justifiable to defraud one person because we have the intention of thereby benefitting someone else.

Here the word 'intention' might be better translated as 'purpose' or 'motive' for in such a situation there would be as definite an intention to steal as to give. The means, then, must be rationally and morally compatible with the end. In one sense the

(1) Father Gilby states that Aquinas "would have agreed that the chief problem about atomic energy is not the physical destruction it may cause, but the human wills ready to let it loose." (Between Community and Society, p.205.)

(2) "For instance we say that to give alms for the sake of vain glory is bad." (S.T.1.11.Q.20. Art.1.)

(3) "Goodness of the will, proceeding from intention directed to an end, is not sufficient to make an exterior act good." (S.T.1.11.Q.20. Art.2.)

means must be considered as an act in itself, which must be intrinsically good, whereas in another it must also be acknowledged as being so united with the end, and so creatively connected with it that it can either corrupt or be corrupted by it. As in the teleological ethics of Aristotle, morally obligatory acts are not means to an end which is simply external to these acts, since they are already a partial fulfilment of it, nor is the end something external to the agent.

In discussing the importance of the external-objective and the internal-subjective factors, Father Vann exalts the value of the latter. To be perfect an act must be inspired by a right intention and conform to what is objectively good. But an action which fulfils the law but which is contrary to conscience is bad, whereas one which is in keeping with conscience but which is contrary to law is good. Law only becomes moral when it is subjectivised by a right spirit and intention. Emphasising the mere external aspects of a law or norm of conduct only results in unChristian behaviour:—(1)

"There is, in the thomist view, no such thing as morality in the ordinary legalist sense." (2)

As natural law consists of the judgements of practical reason made in accordance with rational principles, to act according to

(1) Morals and Man, p.100. p.70

(2) Ibid., p.73.

the law of nature is to act in accordance with reason, which is the unique and distinguishing feature which God has created in man to help him to achieve the right organisation and development of all his potentialities in short, his fulfilment. It is, therefore, utterly natural, as well as right, that man should be guided in all things by reason.

Flückiger considers that this teleological element in Aquinas's conception of the natural law prevents the formation of an inflexible set of rules.⁽¹⁾ Christian tradition, indeed, enforced certain rules upon him but his hierarchy of them was made up of only the really unalterable ones. The dependent and derived rules are made conditional so that they can be adapted in changing circumstances. Aquinas's respect for the individual, too, must have dissuaded him from laying down too many general laws.

The first fundamental of the law of nature, that good must be done and evil avoided, is a formal rather than an efficient cause of the first precepts of the natural law, which express it completely, and which are so comprehended by this generalisation that they are unified in and by it. The natural law then is one, whole, and so rationality and goodness are identified.⁽²⁾ Because all moral activity is purposive and intentional, the first precepts

(1) Flückiger. Geschichte des Naturrechtes. pp.453-4.

(2) S.T.1.11.Q.94. Art.2. S.T.1.11.Q.91. Art.2.

of natural law are identical with its final ends. Accompanying each final end of any precept of natural law are the conditions that it must be in accordance with reason and that it must do good and avoid evil. Flückiger's criticism of this principle as ostentatiously saying nothing of great importance is, in a sense, justified, ⁽²⁾ for its identification of reason and goodness makes it somewhat tautologous. The question of what is morally right and wrong, assumes that it is right to do right, and wrong to do wrong, so it is not much help to be told that this is the answer. ⁽²⁾ The question having been asked by the reason, it must assume the supremacy of reason, as much as the answer. The interchangeability of rationality and goodness is so self-contained as to be rather sterile. Nevertheless Flückiger claims that the victory of the principle of reason in Thomistic philosophy is the beginning of a new epoch in the history of natural law thinking. Natural law is no longer, as with the Fathers, primarily that which is enunciated in the law and the Gospel but stands as something separate from though parallel to it.

It could be claimed that Aquinas's understanding of good gains meaning from its identification with that which rationally develops and perfects man's human nature. Natural law certainly accumulated precepts arising from reason's consideration of the

(1) *Geschichte des Naturrechtes*, p.454.

(2) There is an analogy here between the discovery that God exists before God means anything in Aquinas's naturalistic theology, and this moral enlightenment that doing good is the foundation of ethics before good has any real definition.

basic tendencies and feelings in man. It is concerned with all possible virtues and acts of virtue. It wholly takes in and controls the animal nature of man. Dom Lottin's opinion is that Aquinas, following Ulpian, held the (more or less) Roman conception that natural law takes in actions common to men and animals. (1) In fact, natural law, as reason, cannot be indifferent to any part of man's life, social or private. It is concerned not only with obligatory acts but also with the counsels of perfection. And it is aware, in its understanding and judgements, of the three fundamental drives which dominate human life, but which it must finally control; the drives towards self-preservation, towards procreation and parenthood, and towards intellectual, cultural and religious truth, and social and political community. (2)

These drives were not apparently placed by Aquinas in any hierarchical order. It is obvious that conflict between their different demands could easily occur. For example, men and women might seriously impair their own lives and careers in order to have and maintain children; the devotion to a life of intellectual research might necessitate the sacrifice of marriage and parenthood, as might the religious life. Here again there are likely to be

(1) See p. 331.

(2) S.T.I.II.Q.94. Art.2.

conflicts between individual and social ends, but Aquinas assumed too naively that all these drives necessarily harmonise, while in fact the most trying task of the moral life is their integration.

An example of one of the first precepts of natural law, the outcome of reason contemplating and controlling one of these basic drives, is that which concerns marriage. Marriage is prescribed because it alone ensures the final end of sexual union, the procreation and education of children, and also the second, subsidiary end, the mutual help of man and woman. This secondary end or precept is derived from the first and so subordinated to it that, if necessary, it may be sacrificed on its behalf. Polygamy is not contradictory to the first precepts of marriage, since it need in no way interfere with the procreation and education of children. Polyandry however, because it involves uncertainty of parenthood, is utterly opposed to it. Both polygamy and polyandry, by causing friction and jealousy, and by making complete devotion of man and wife to each other impossible, oppose the secondary precept or end of marriage. These secondary precepts however are not essential, or, at least, they often need the support of human or divine law to give them full authority.

This seems a bad, though conventional, example of a natural law precept. It is very difficult to understand how the secondary precept is derived from the first simply by reason contemplating experience, or how, being a conclusion of it, it can ever hinder it. It would be quite possible to argue that in many circumstances it would be better for children to be educated away from one or the other or both parents. Marriage is certainly not essential for the procreation of children, which is stated as one of its foundations and ends, and it could be argued that the parents are only likely to be ideal educators if their union is one of love and mutual benefit and harmony, if, that is, the secondary precept be fulfilled first. It would even be possible in many circumstances to guarantee parentage in a polyandrous marriage, although both polygamy and polyandry might be likely to hinder education of children.

This particular example has been examined in some detail to shew that natural law is not wholly rational. Here the leading influence was not rationality but revelation and Christian tradition. Indeed, Flückiger quotes with approval the opinion of Hans Welzel,⁽¹⁾ who emphasises that Aquinas's criterion for discrimination between 'good' and 'bad' natural inclinations was, in fact, not so much reason as prescribed Christian ethics, or at

(1) Hans Welzel: Naturrecht und materiale Gerechtigkeit, p.61. quoted by Flückiger, pp.456-6.

least a reason so influenced by Christianity that it worked in Christian terms and had a thoroughly Christian understanding of 'good'.⁽¹⁾

It is interesting to note, therefore, that at the same time Fluckiger is astonished at the strongly naturalistic basis of Aquinas's ethical system, and thinks that, with its rationalism, it becomes a resurrection of pagan natural law.⁽²⁾ Whether in his thinking on particular natural law precepts Aquinas was more under the sway of naturalism, rationalism or Christianity is of the greatest importance. His natural law teaching on marriage seems to be almost wholly Christian. His natural law teaching on self-defence, however, seems to rely more on naturalism.

The most important of the fundamental drives for a study concerning war is that towards self-preservation and, therefore, self-defence. Aquinas's first precept of natural law arising from this impulse justifies both self-preservation and self-defence as both right and good. Nevertheless, Professor Ramsey⁽³⁾ thinks that, in spite of his own natural law theory, Aquinas was almost as reluctant to think of direct killing, even of an enemy or an unjust aggressor, as intrinsically right as was Augustine, who thought killing in individual defence wrong.⁽⁴⁾

(1) Geschichte des Naturrechtes, p.456.

(2) Ibid.

(3) Paul Ramsey: War and the Christian Conscience, pp.34-5.

(4) De Libero Arbitrio, Bk i. ch.V. It is possible to question the absoluteness of Augustine's refusal to admit individual killing - see p. 515 below. Aquinas himself managed to interpret Augustine in such a way that he agrees with him. For he said, when Augustine wrote 'How are they free from sin in sight of Divine providence, who are guilty of taking a man's life for the sake of the contemptible things?', he pointedly said for the sake of, in order to shew that he was condemning the intention. (S.T.I.11.Q.64. Art.7. Reply obj. 1-2)

Aquinas's ruling on self-defence⁽¹⁾ is closely bound up with the law of double effect. The intention and act of defending oneself is not unlawful since it is natural for everything to preserve its own life, but if the act becomes disproportionate to the intention and end, if for example more violence in self-defence is used than is necessary, the act does become unlawful. Aquinas used a legal rule as his test; 'It is lawful to repel force by force, provided one does not exceed the limits of a blameless defence.' And so it is presumably only when killing is inevitable

(1) S.T.11.11.Q.64 art 7. and Q.43 art.3. S.T.1.11.Q.1.art 3.ad.3.

"I answer that, Nothing hinders one act from having two effects, only one of which is intended, while the other is beside the intention. Now moral acts take their species according to what is intended and not according to what is beside the intention, since this is accidental as explained above...Accordingly the act of self-defence may have two effects, one is the saving of one's life, the other is the slaying of the aggressor. Therefore this act, since one's intention is to save one's own life, is not unlawful, seeing that it is natural to everything to keep itself in being, as far as possible. And yet, though proceeding from a good intention, an act may be rendered unlawful, if it be out of proportion to the end. Wherefore if a man, in self-defence, uses more than necessary violence, it will be unlawful; whereas if he repel force with moderation his defence will be lawful, because according to the jurists, it is lawful to repel force by force, provided one does not exceed the limits of a blameless defence. Nor is it necessary for salvation that a man omit the act of self-defence in order to avoid killing the other man, since one is bound to take more care of one's own life than of another's. But as it is unlawful to take a man's life, except for the public authority acting for the common good, as stated above, it is not lawful for a man to intend killing a man in self-defence, except for such as have public authority, who while intending to kill a man in self-defence refer this to the public good, as in the case of a soldier fighting against the foe, and in the minister or judge struggling with robbers, although even these sin if they be moved by private animosity."

that it is permitted insofar as one need not refrain from defending oneself even if this brings about the death of the attacker. Such killing will not cost the defender his salvation for 'one is bound to take more care of one's own life than of another's'. But this action is still not lawful, for although self-defence is lawful, it is not lawful for an individual to take a man's life except on behalf of a public authority acting for the common good. It is unlawful, therefore, for an individual to intend to kill in self-defence, except inasmuch as he acts in a public capacity and for the public good. Even then he must not be moved by personal feeling. Aquinas was obviously reluctant to justify the right of an individual to kill even in self-defence, partly no doubt because there is obvious danger that such killing might, in the urgency of a situation, be too hastily done, and partly because he felt that the act is wrong in itself.

It is equally obvious, however, that in some cases of self-defence it is necessary to kill in order to save one's life, and such an act could be regarded as proportionate to the end. And since it is right to value one's own life more than another's and since one can commit such an act without danger of losing one's salvation, one would have thought, therefore, that for

Aquinas such killing would be wholly lawful. The separate moral aspects of it appear to be so. But there is something about the nature of the act itself which prevents Aquinas from really accepting it. And thus, if one is acting solely as an individual, he says, it is not lawful to take life or to intend to kill.

According to the judgement that morality is concerned only with intentions, therefore, the act of killing in individual self-defence must be considered as wholly immoral or, inasmuch as it is completely unintentional, wholly amoral.

In discussing the difference between individual and public right, Professor Ramsey suggests that in the latter case perhaps the intention to kill is still regarded as evil, but it is thought that good may come out of it, or that, 'in this instance alone as an exception, the means used - the direct killing of the unjust aggressor - should be judged to be right in itself.'⁽¹⁾

But neither of these solutions really explains the difference.

Professor Ramsey holds that the rule of double effect was first clearly stated in this discussion about self-defence, and was the result of an attempt to Christianise justice, and to put into practice a Christian regard for the sinful man,⁽²⁾ in that it checked disproportionate revenge, and preserved the intention of

(1) p.41.

(2) War and the Christian Conscience, pp.42 - 44.

Christian love.⁽¹⁾ He argues that the permitted unintended killing is not willed for itself, nor as a means towards the unintended end, but only as 'one of twin, unavoidably connected events.'⁽²⁾

He refers to criticisms⁽³⁾ that it is not humanly possible to 'let go the bullet and withhold the intention', or 'to let go the blow and withhold the animosity', and that it is therefore hypocritical casuistry to judge the same act as good or bad on grounds of intention alone. Such criticisms lead to the conclusion that it is therefore better wholeheartedly to admit killing in self-defence. Such reasoning he thinks springs from unwillingness to admit love's power to safeguard a good intention over and above the demands of justice, which latter would allow the intention as well as the act of killing in self-defence, and is made by the natural man in us, the man insufficiently schooled by Christ.

This unwillingness to see that love can temper justice he finds in the growth of that school of later moral theology, which simply distinguishes according to natural law between intrinsically right means which are always justifiable and intrinsically bad means which never are. Many moralists, would say, according to

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- (1) "Herein is prohibited at the least, what love prohibits, namely, the direct killing of any man, as an end in itself, or as a means of preserving the life that a Christian should love far less than he loves God and his neighbor in God who stands before him in the guise of a robber or a murderer." (Ibid., p.45.)
- (2) Ibid., p.44.
- (3) Such as made by Father John C. Ford in an article on "The Morality of Obliteration Bombing" in Theological Studies, V.3. (Sept.1944) pp.261-309
- War and the Christian Conscience. p.49.

their own personal prejudices, that Aquinas did not understand the principle of double effect as it is understood today, or that he applied it inappropriately to the question of self-defence, or even that it is not to be found in Aquinas. After the early seventeenth century most moral theologians ceased to apply the rule of double effect to the problem of self-defence, because they regarded the killing of an unjust aggressor as inherently justifiable, and because it is assumed impossible for one man to be a target for an act but not for the intention behind it; it was related rather to the problem of the killing of the innocent, since in warfare the innocent may remain materially outside the sphere of the intention. The indirect would be materially separate from the direct effect.

In the nineteenth century the rule of double effect came to be prominent in Roman Catholic theology and it was elaborated to mean that indirect consequences are beyond the bounds of moral responsibility as long as the directly intended action is good, or at least morally indifferent, in its nature and object, and a good effect only is intended. The evil consequences are not to be willed as a means to the good effect, but both effects have to arise simultaneously from the good or morally indifferent action which caused them, and the goodness of the good effect has to be done directly as well as directly willed, and the good effect has to arise as immediately from the act as any secondary evil consequences

for which the doer is not to be held responsible. (1)

The killing of an unjust aggressor has thus come to be recognised as a good and justifiable means rather than as an indirect effect, no doubt because the involvement of the will and the intention is so clear and because it is difficult in the issue of self-defence to permit the act without permitting the intention. It would be impossible to think of the death as an effect that comes as immediately from the cause as the saving of one's own life.

Nevertheless, Professor Ramsey finds in Aquinas's condition that killing has to be indirect and not direct, an example not of the natural law ruling that every life is immune from direct attack unless the right has been sacrificed by injustice done, but of how love surrounds the weak and the helpless, the unjust and the foe. It therefore recalls Christ's willingness to die for the ungodly. He refers to Bouscaren's thesis (2) that only an operation which in fact and in intention unavoidably kills the foetus indirectly should be allowed, by claiming that according to Christian morality, any lawful killing, including the killing of an unjust aggressor, must be indirect.

Professor Ramsey thinks that the question is very relevant to the modern dilemma about the all out use of nuclear weapons, his

(1) War and the Christian Conscience, p.48.

(2) Ibid., p.52. He quotes T. Lincoln Bouscaren's The Ethics of Ectopic Operations. pp.49 - 52.

implication being, apparently, that not only does the rule of double effect safeguard the subjective intention, but demands that objectively also the intrinsically evil effect of the slaying of innocent people be not a means to whatsoever military advantage. This would bring us close to the rejection of all modern warfare.

He concludes that Aquinas's true meaning is not to be found by seeking into the exact interpretation of intendere, non intendere, ex intentione and praeter intentionem, or whether to intend an action includes intention of inevitable means. It depends on

"... whether one stands with Aquinas close to Augustine's rejection of private self-defence lest a man inordinately love his life and property more than God and his neighbor in God, or whether one stands close to the fully developed modern theories of natural justice..."(1)

But if Aquinas stands close to Augustine, he stands equally close to the "modern theories of natural justice." He may think with Augustine, but is in danger of acting with those who inordinately love life and property more than God and their neighbours in God. Christ's willingness to die for the ungodly is impressive because he did die for them.

The dictates of natural law are the basis of all individual, particular moral judgements, as well as of all just human legislation.

(1) War and the Christian Conscience, p.56.

The question arises whether all acts accepted as moral are obligatory. It would seem as though, if the fulfilment of all potentialities were the natural goal of man, it would for example be obligatory for him to have as many children as he could support and educate. Only on the basis of belief in a different and spiritual goal which transcended, to the extent of contradicting, that natural end could celibacy be called a higher law. Yet if that goal were allowed it would become, presumably, obligatory, involving a man in moral evil if he did not obey it. To what extent, therefore, can reason without revelation understand and formulate such a goal and adapt its judgement to it? It is interesting that Aquinas included the inclination to know God within the law of nature, so that it would apparently be possible for a man to feel a calling to devote himself to spiritual matters apart from any revealed law or vision of God. Clearly some kind of hierarchy of the basic drives would help to decide whether a particular act were obligatory. And yet Aquinas made no such arrangement of them.

Aquinas also differentiated the ways in which it is possible to look at virtuous acts. Not all acts are dictated by the law of nature, for prudential reason can make certain decisions and authorise certain actions. ⁽¹⁾

(1) 111.Sent. D.33. Q.2. Art.3, 4. See also Le Droit Naturel Chez St Thomas d'Aquin et Ses Prédécesseurs, pp.77-8

Within the sphere of natural law itself, only those virtuous acts which would involve a man in moral evil if they were not performed are held obligatory. Father Copleston points out that man is sometimes presented with a choice of alternative goods of equal moral value, and gives the example of a man who, although morally obliged to support his family, is not bound to be a postman rather than a porter.⁽¹⁾ Here one would have thought that it would be in the choice between two such apparently equally good alternatives that the essential wisdom of the moral sense of prudence could prove itself, for the man might be more happy and fulfilled as a postman than as a porter. In some choices the alternatives might be of equal moral value, but moral decisions generally are between greater and less goodness, even though reason may not be able always to understand this.

For Aquinas himself, obligation depended upon how necessary it is for realising the end sought. If it is essential, obligation is clear. He distinguished between laws of nature, which are always obligatory, and counsels of perfection, which become obligatory only in certain circumstances.⁽²⁾ This would suggest that the counsels are in general less obligatory than the law of nature because they are less essential to man's final end. Since

(1) Aquinas, p.201.

(2) IV. Sent. D.15. Q.3. Art.1. Sol.5 ad 2.
IV. Sent. D.19.Q.2. Art. 2. Sol.1. ad 3.

See also Le Droit Naturel Chez St Thomas d'Aquin et Ses
Prédécesseurs. pp.74-5

all have the natural inclination to know God, although not all feel impelled to follow it to the same degree, it would appear that individual, vocational differences alter the degree of obligation which resides in even a law of nature.

It has been seen already that reason's inability to know the final end thoroughly undermines the whole natural law doctrine. And yet where reason is helped towards fuller enlightenment by revelation, as in the counsels of perfection, such help was binding only for a few who, by reason of their way of life and calling, were committed to the ideal of perfection. The ordinary person was not so bound. Aquinas accepted this distinction, but it is increasingly rejected by Catholic thinkers today. Not only is there a tendency to soften the distinction between the secular and the sacred, and to allow the laity a deeper responsibility and higher role in the life of the Church, but the counsels of perfection are regarded as binding all Christians.

"As sanctity differs in manner in different historical conditions, so we may suppose that the christian's awareness of his temporal function to-day "calls for a new type of holiness, which one might characterize primarily as a holiness and a sanctification of the secular life" and that the new type of christendom to which the exigencies of to-day would seem to point is a christendom not sacrale but profane, a civilization which is no longer simply an instrument of the spiritual but is an end in its own order (finis ultimus secundum quid) The old bad theory of the Two Ways - contemplation, perfection, for the cloister, the bare minimum observance of commandments for the world (the state of the imperfect) - this invalid distinction, "so

widespread, it would seem, in the sixteenth and seventeenth centuries", must receive practical refutation: "profane will no longer be opposed to sacred as impure to pure"; for the Gospel principle -- the sanctification of the profane, the penetration of grace into the depths of the world of nature - will reach a further setp in its gradual manifestation and realisation." (1)

Father Gilby⁽²⁾ finds a similar feeling even in Aquinas; in his statement that nothing 'peculiar' attaches to sanctifying grace.⁽³⁾ Holiness, 'though it may be rare is no luxury, but the culmination of charity, commanded, not counselled,' And he again refers to Aquinas⁽⁴⁾ as emphasising, in his study of the life of perfection, that the vows and practices of the religious life are only a means to an end, charity, which is a command for all.⁽⁵⁾

The relation between natural law and divine law in Aquinas is not simple. One purpose of divine law is to confirm, proclaim and emphasise the law of nature so clearly that no-one could be wholly ignorant of it.⁽⁶⁾ The Ten Commandments supply an example of this reinforcement of the natural law. But revelation does more than this. It points man to his supreme and supernatural end, which reason by itself can neither understand nor attain.

(1) Vann: *Morals and Man*. pp.131-2 (paraphrasing Maritain: *Humanisms Intégral*, p.134.

(2) *Between Community and Society*, p.197

(3) *S.T.I.II. GXL. 1.*

(4) *S.T. II.II. CLXXII.*

(5) p.232. It has never been disputed that 'love your enemies' is a command also. See pp.306

(6) *S.T.I.II.Q.4. Art.6.*

The positive divine law shews man that this supernatural end is a life of union with God, and teaches the supernatural means, such as the sacraments and the availability of divine grace, which help him towards it. The fully developed natural man, who in obedience to the law of nature, has developed and perfected all his potentialities is still not the ideal man. He needs, in addition to the natural virtues those supernatural virtues of faith, hope and love which can be given only by divine grace, and which transcend, extend or enlarge, and do not contradict the natural virtues.⁽¹⁾ There was no question for Aquinas of the lesser end, the 'good' apprehended by reason, opposing, limiting, masking or usurping the final and true end of spiritual union with God. It is, indeed, part of that end, since for him the development and perfecting of all things was, however unconscious man may be of the fact, identifiable with the glory of God. The fulfilment of man's natural end is only part of and only on the way to the greater and more final fulfilment, which is communion with the glory of God.

This assumption that man's natural end never opposes his spiritual end was too much taken for granted by Aquinas. In many ways they do coincide, but they must often oppose each other, or be so out of harmony that the natural law must be overruled.

(1) S.T.1.11.Q.58. Art. 3.

How is it possible to reconcile Christ's teaching that one should take no thought for one's life, food and clothes, that one should not defend oneself when attacked, that one should die unto oneself, sacrifice one's life for one's friend, for Christ, for God, and lose one's life in order to save one's soul, with the impulse to self-preservation and the teaching that it is permissible to value one's own life above that of others? How is it possible to reconcile the command to leave one's wife and children for Christ's sake, with the absolute goodness of marriage and the family; the impulse to intellectual honesty, adventure and freedom with the claims of some of the dogmas of faith; the conflicts liable to occur between loyalties to God and to Caesar? In the world as it is, self-fulfilment and self-perfection are apt to occasion the frustration and sacrifice of others, even when they are interpreted in a Christian sense. At the same time, Aquinas's interpretation of the divine law shews it as not always directed towards the common good, and he made it give way to the natural law, as when he deemed warlike resistance more beneficial than non-resistance.

The secondary precepts of natural law are those which arise from its application to particular circumstances. They are not merely occasioned by sin. The commandments of the Second Table

and the rules of the ius gentium all belong to the secondary precepts. (1) They are valid on the whole, but, in certain circumstances, they can be altered as long as the alterations, whether of addition or subtraction, are a rational adaptation of human behaviour in conformity with the highest end of divine law. The tendency of such alterations, therefore, allows for the choice of a lesser evil to avoid a greater. It follows that although definite commandments, such as those of the Decalogue, bind individual relationships, in politics, a ruler as representative of reason, has freedom to make such laws as he will as long as these aim at the common good. Flückiger remarks that in practice these processes have usually been conducted under the wing of the Church. (2)

But not only the secondary precepts are mutable. For although natural law expresses the divinely ordained and growing tendencies of things, most of the canonists and theologians, Aquinas among them, allowed exceptions to its immutability, universality and indispensability as a whole. They held the rationality of natural law immutable, but thought that in practice it had to be allowed that the full spirit of natural law cannot be locked in a set table of unalterable rules. As for any distinction

(1) S.T.1.11. Q.100. Art.3.

(2) Geschichte des Naturrechtes, p.458.

between immutability and universality, while it is true that Aquinas considered them separately he held that both apply only to the commands to act rationally and to do good and avoid evil, so that they come to more or less the same thing. But even here an understanding of 'good' calls for insight into its practical translation into secondary precepts, so that if the latter are allowed to be of limited application it is hard to make out a case for the unlimited validity of the first precepts. The more particularised precepts, such as that one must pay one's debts, or that monogamous marriage is ideal, admit of exceptions, even though they are of constant authority in the majority of cases and are therefore invaluable as general rules.⁽¹⁾ It would be more in accordance with reason not to restore his sword to a madman; polygamy may be even obligatory in some circumstances, for the sake of the education of the children. Such exceptions are natural as well as rational, for nature herself sometimes allows inexplicable deviations from general rules.⁽²⁾ Some of its apparent exceptions or irregularities in fact, are expressions thoroughly consistent with some even more fundamental rule. Dom Lottin, for example, reckons polygamy a pious obligation laid on the patriarchs for the increase of believers.⁽³⁾

(1) III. Sent. D.37. Q.1. Art. 3-4.

(2) IV. Sent. D.33. Q.1. Here Aquinas used Aristotle's reference in the Nicomachean Ethics, to the variability within law itself.

(3) Le Droit Naturel Chez St Thomas et Ses Prédecesseurs, p.85.

In the Summa Theologica Aquinas distinguished the universal principles of natural law, which can be included among the first precepts, from the more or less particular conclusions which can be drawn from them. He allowed only such conclusions as were barely removed from the first precepts, the conclusiones propinquae, as truly part of natural law.⁽¹⁾ This appears to go against Father Copleston, who says that:-

"The natural moral law in its totality therefore consists of a multiplicity of precepts of varying degrees of generality. But at the same time all these precepts are virtually contained in the fundamental precept that good is to be pursued and evil avoided."⁽²⁾

It seems quite clear that the farther reason is removed from first premises the more it is likely to make mistakes, and Aquinas even allowed that conclusiones propinquae are often misunderstood by reason. It would follow, therefore, that a precept loses universality in proportion to its conditioning by circumstances. And as particular circumstances call for particular rules, there is a sense in which it would be true to say that circumstances shape natural law.

Aquinas, however, said that such variations as happen in natural law arise not from circumstances but from human imperfection. On these grounds while allowing for accidental mutability, he held

(1) S.T.1.11.Q.94. Art. 4.6.

(2) Aquinas, p.218.

natural law essentially immutable. Variations in human nature he set down as signs of imperfection, not of individuality.⁽¹⁾ In politics this raises the question of how far variability is the outcome of circumstances or imperfection, while, in a wider sense, it would seem that if deviations from natural law can be set down to imperfection, it becomes difficult to know where to look for natural law itself.

Natural law can be expanded as well as varied. Such expansion arises from circumstances and actions of which it was previously unaware. Common ownership and equality were never in any age or circumstances commanded by the law of nature, so it can happily tolerate their opposites, private ownership and slavery, which are direct products of the natural reason, and positive institutions of the ius gentium. And God can dispense with His own laws. Since the author of the law relating to marriage is God Himself, only He can dispense with it. This He may do by means of an interior voice persuading, or rather commanding, man to disobey the accepted rule. So a direct revelation commanding polygamy was made to the patriarchs. Their conduct was to serve as an example to future generations who found themselves in similar circumstances. Occasionally, however, it appears that God Himself cannot dispense with first precepts of the natural law, but only with the secondary ones. Man himself can do this of course. When Aquinas faced the

(1) S.T.11.11.Q.57. Art.2.

difficulty of Hosea's being commanded by God to marry an adulteress and to commit fornication, which was against the first precepts, however, he modified this condition, and explained that as God was the author of nature, He could dispense with any of its rules. Just as miracles witness to this power or possibility in the natural world, so, in the moral sphere, God is able by miracle to dispense with the first precepts. Such dispensations and consequent unique commandments symbolise the new law. (1)

God is the final end of all actions, and although most actions express themselves towards Him by meandering means, others are directly related to Him, and confront Him immediately. Such acts as hatred of God, blasphemy and unbelief, therefore, are absolutely bad, but others, such as theft or homicide, which seem bad at first sight, may be so conditioned by human circumstances as to be good. Even God, therefore, cannot dispense with the precepts of the First Table of the Decalogue, which refer directly to Him, but only with those of the Second, which are concerned with a man's relations to his fellows. (2)

Aquinas also distinguished the material object of the law from the intention of the lawgiver. (3) The latter is the fundamental

(1) IV. Sent. D.33. Q.2. Art. Sol.1; ad.2.

(2) I. Sent. D.47. Art.4.

(3) III. Sent. D.37. Art. 4.

criterion of the particular applicability of the law itself.

Since, however, all the laws of the Decalogue express this intention absolutely, no man can dispense with any of them.

Aquinas, therefore, had to forgo his earlier explanation. To

support a new analysis that is that the rules of the Decalogue are in themselves too vague, and that they but badly interpret the true intention of God, he fell back upon exegesis. The sixth commandment, for example, does not forbid killing in any and every circumstance, but only when the victim does not deserve death. As for the marriage of Hosea, since this could not be excused along such lines, he had to return to the earlier explanation that God could, if He so wished, directly dispense with the Second Table of the Decalogue.⁽¹⁾ This seems to shew up a kind of uncertainty. When he returned to the subject,⁽²⁾ Aquinas stressed again that only the means by which the two fold intention of natural law is to be realised can be altered, not the twofold intention itself.

As has been seen, it is because reason without the help of revelation is unaware of the true end of the 'good' that natural law theory seems questionable. And yet, as Flückiger points out, in any teleological system of ethics only the final end and general direction remain unalterable, and the end is higher than

(1) De Malo. Q.3. Art. 1 ad 17.

(2) S.T.I.II.Q.100. Art.8.

the organisation.⁽¹⁾ Lesser ends can always be sacrificed in favour of the higher or highest. For Aquinas, there were no inviolable human rights or laws; the individual human and social law of nature was only relative, and must always remain subservient and adaptable to the highest end of all existence, that is salvation and eternal communion with God. On such grounds the Church long approved slavery. Aquinas held it to be part of the natural law inasmuch as some people, such as savages, are by nature fitted for it.⁽²⁾ But as the institution was only part of the secondary precepts he thought slaves ought to be handled humanely. As slavery hindered the growth of individual potentialities and probably withheld men from salvation, however, it cannot be said that it did much to realise the true ends of natural law. Nevertheless, the papacy allowed fifteenth century Spanish and Portugese settlers in the Americas to make slaves of the aborigines, and when the latter died in large numbers because they werenot used to the work they were put to, La Casas, a Dominican, advised Charles V to ship negroes to replace them. In 1888, however, Leo XIII ruled that the institution impaired the sanctity of the individual. Even so, Manser⁽³⁾ held that although circumstances had made slavery into a lesser evil, it was not in itself against natural or divine law, and that it had so long been

(1) Geshichte des Naturrechtes, p.470

(2) But see p.327 below

(3) Manser: Angewandtes Naturrecht, 1934, p.66. quoted by Flückiger, p.466.

part of the economy in so many states that its abolition would bring greater evils than its continuation.

On the subject of usury, Aquinas was at one with the medieval Church and held it to be against natural law. Aristotle had thought of gold as a medium of exchange, and to put out money at interest, therefore, impaired its natural function. Usury, therefore, was condemned for this offence and not for the sins it might have been thought to encourage. In the end the Church not only sanctioned usury but benefited from it. This change of attitude has also been explained by Manser, who says that although usury is against both natural and divine law, the Church, in the light of worldly circumstances, is entitled to allow it. A creditor might suffer from the temporary loss of his money and so he has a right to compensation. If the compensation takes the form of interest, it is against the natural and divine laws, but even so it is a lesser evil than the creditor's deprivation, and so it has to be allowed.⁽¹⁾

On the other hand, neither the medieval Church nor Aquinas held the institution of private ownership as the outcome of a command of the natural law. It was rather the outcome of human reasoning, which had found it to be the most reasonable among available alternatives. Private ownership, therefore, was a human addition

(1) Ibid., pp.103. 107. 109, quoted by Flückiger, p.468.

to natural law. In the middle ages, of course, the Church had large properties and played a leading part in the economic life of the world, and so it could easily find itself in the position of having to make such additions in order to hold the power it had built up for itself. In such circumstances it became clear that any exception or addition to natural law had to be allowed if it could be held that it led to the one true end of that law.

Some of the weaknesses of Aquinas's ethical thinking are now clear. Because it was grounded on the psychology of the individual human being it shared the shortcomings of medieval psychology. Aquinas cannot be blamed for not being a modern psychologist, but like others of his time he asserted as truths what can only be called hypotheses. The departmentalising of reason, for example, is really a myth contrived to account for certain facts which seemed clear to his Christian consciousness. But such contrivances as the synderesis do not become real merely because they are asserted. The natural law on which Aquinas grounded morality is universal and absolute only as long as it remains vague and general. Reason is infallible in informing us that we ought to obey her, and it is only reasonable to agree to follow reason. But reason is not remarkably efficient in telling us what to do. Although, teleologically, the essence and

of practical reason should be activity in particular instances, its inconsistency becomes more clear the more particularly its help is sought. Practical reason, in practice, is not nearly practical enough. In a teleological theory the inability of reason to understand the final end and good towards which it should be working makes nonsense of the whole theory, since it is thus unable to assess the value, in relationship to this unknown good, of any action it might recommend towards its achievement. Nor is reason able to act with a foresight which amounts to accurate foreknowledge of even immediate circumstances.

There can, of course, be no quarrel with Aquinas's placing the moral centre of the individual in the mind. But to say that all people think that the first command of the moral sense is that they should act rationally is very questionable. Many would agree that to act with common sense is a valuable rule of life but this often has no connection with morality at all. That one should act with kindness and forgiveness is certainly more widespread as an ethical ideal than that one should act rationally. Nevertheless, the affairs of the world shew that ~~not~~ only immoral behaviour but ignorance and unintelligent action bring about a great deal of suffering and real ill,⁽¹⁾ and Aquinas's stress on the duty of

(1) The most tragic evidence of this today is the way improvements of human life which have resulted from excellent motives, have accelerated one of the most ominous menaces to the future health and security of mankind, a rapidly developing population which may eat itself out of existence.

It is clearly good that the diseases which have taken toll of human life for centuries should be overcome and that better feeding

acting in the full light of reason should not be too readily discounted. But for Aquinas, the criterion of natural morality was much wider than strict intelligence or rationality, for he allowed the rational to be overwhelmed at times by instinct, intuition or feeling. His natural law in fact is at times more natural than rational.

His theory does at least take note of many aspects of behaviour. But these other aspects, such as instinct, feeling and even will, are amoral in themselves, and as they cannot always be harmonised by reason there can be little certainty of resulting good. It is true that the teleological nature of Aquinas's theory allowed some flexibility, but at the same time it led to all the dangers of justifying means for the sake of the end and of overlooking the truth that a means is, in a sense, its own moral end. Similar dangers arise from allowing circumstances to condition morality. This may lead not only to acceptance of lower moral standards, but also to acceptance of circumstances which have conditioned them. Just as it was possible to accept the economic and political circumstances which lay behind slavery until they could be used to justify it as a lesser evil so too may economic and political circumstances be used to justify war as a lesser evil even though the circumstances are in fact clearly not unalterable.

and living conditions should lengthen human life. But some proportion must be kept between population and the food and living accommodation available for it. Promoting the former and neglecting the latter has been a folly so tragic that some experts have been driven to suggest that in some areas the diseases overcome should temporarily be allowed to resume their old counter balancing function.

Nevertheless the possibility of flexible interplay between firm rules and changing conditions does allow for the moral freedom of the individual. And from Aquinas's natural law doctrine, considered apart from revelation, it is clear that he gave first thought to the individual and rated motive and intention and the internal-subjective aspects of an act above all others. On this issue Vanderpol and Stratmann are much nearer a true interpretation of Aquinas than Regout and Mgr de Solages.⁽¹⁾ But when Aquinas sought to harmonise natural law with Christian revelation he seems to have allowed more weight to the Old Law than to the New, for whereas he took great care to harmonise the Decalogue with natural law he often left contradictions between the New Law and natural law unreconciled. Indeed he applied some of the counsels of perfection to clerics only, so that he implied that parts of the New Law are less universal than the Old Law, which could be reconciled with natural law. That the counsels of perfection, which Aquinas certainly believed give directly the words of God in the words of Christ, and which contain the full revelation of how man can achieve his true end and perfection, should be set about with more qualifications than the ten commandments seems an awkward conclusion for a Christian, and for a natural law thinker.

(1) See above pp. 172-186.

Aquinas's general ethical teaching has been examined in order to assess its relevance to his answer to the problems of self-defence and individual participation in war. The value of this answer is itself a test of the general theory itself. Aquinas grounded natural law on the basic drives, and in this case those towards self-preservation, and therefore self-defence are deemed to be wholly right. Any difficulty which might occur through rivalry between life and life in their struggle for self-preservation had to be resolved, apparently, by the rule that one is bound to take more care of one's own life than of another's. To this extent Aquinas's theory is self-centred. Aquinas was more or less bound to accept the right of power to assert itself and, therefore, the naturalness and rightness of the 'survival of the fittest.' In individual terms, such struggles often become deadly and Aquinas's only teaching here was that act and intention could be kept apart. It was unlawful to kill but it could be done in self-defence as long as the defender did not mean to kill.⁽¹⁾

Some of the weaknesses of such a theory have already been made plain. If further help be sought from the more general principles of natural law, it can hardly be found. In the heat of the moment, reason is likely to lose its head and go awry⁽²⁾ and even

(1) See above p. 276.

(2) R. Niebuhr and Bishop Dunn (Article in Christianity and Crisis, Vol. XV, No. 10, June 13, '55) denounce non-violence as inferior because it takes its stand on obedience to God rather than on consequences, and they reckon that calculation of consequences is part of a responsible moral decision. The 'works' for which every man is 'responsible to God' include the results as well as the motives of our deeds. If these consequences are taken into account by pacifists, they are quite wrong about them-misjudge them. But they admit that consequences of modern warfare will probably

in cold blood is likely to be inaccurate. Reason cannot easily decide whether life or property has been attacked or the relative value of the two lives; it cannot accurately forecast the result of any defensive action, or ensure that it will be ~~either~~ proportionate to the strength of the attack, or successful. Indeed a prizefighter is likely to be a better defender of self than a philosopher. Not to mean to kill an attacker might well hinder the defence, while proportionality itself is a difficult criterion if the attackers are more than one. In particular situations, of course, self-defence seems to arise from spontaneous impulse rather than from reason, whereas individual participation in war would seem to call for more rational judgements. The forbidding of the intention to kill was presumed by Professor Ramsey to be Christian rather than natural or rational, for it goes against the natural impulse to self-defence which may, quite naturally and rationally, become self-conscious of meaning to kill if necessary. Thus, if the ban is held Christian, it is against natural law, and if it is held part of natural law, the latter commands irreconcilables, for it is at the same time both cat and mouse. This is the real difficulty with his theory.

It will be recalled that it seemed from the war articles dealt with in the Summa Theologica that Aquinas handled his New Testament

include tremendous, incalculable destruction on both sides. And later it is admitted that it does not seem possible to draw a line in advance, beyond which it would be better to yield than to resist and that 'because the ultimate consequences of atomic warfare cannot be measured only the most imperative demands of justice have a clear sanction'. (see pp. 403-410 below)

texts in such a way as to make them fit in with a preconceived opinion which was most likely the result of his own natural ethical thinking and the leading ethical and political theories of his time. The shortcomings of his exegesis were only too clear in his interpretations of the words of Christ. The most explicit teaching of Christ on retaliation, non-resistance and the right attitude to the foe, which is found in the Sermon on the Mount,⁽¹⁾ was not dealt with in the war articles, but now that the significance of his general natural law thinking for the particular problem of self-defence has been examined, it is fitting to consider his treatment of these most important texts in order to learn whether he gave more sway to revelation or to his theories of natural law.

Aquinas's authorities in the Catena Aurea⁽²⁾ upheld the lex talionis and the righteousness of those who follow it. Still further from sin are those who seek no retribution at all and justice is best served when no trace of revenge is present. Christ undermined sin at its source by forbidding retaliation. Augustine stressed that non-resistance as well as non-retaliation was enjoined, and that Christians must be willing to suffer wrong and to give to all who ask. Wickedness he thought a spiritual sickness,

(1) Matthew. V.38 - 48.

(2) pp.204-210.

and it had to be endured for the sake of those who suffered from it as Jesus shewed by giving up his life. But Augustine also stressed that willingness to suffer wrong does not rule out the possibility of mercy through correction. Elijah visited some sins with death because death was better for sinners and for others than that the sins should flourish, for pain and fear may bring people to God when love has failed. Christ, said Augustine, forbade not this sort of correction when he rebuked the disciples,⁽¹⁾ but only the hateful spirit in which it could be rendered, and even after Christ had preached love of our neighbours and after Pentecost, Ananias and his wife were punished by death, and Paul handed some to Satan for the destruction of the flesh. Keeping deed and spirit apart also answered those who feared that the command not to retaliate opened the way to the plunderer or foe. Augustine thought it possible to fulfil the command in spirit and yet to give mercifully short shrift to the attacker. To keep the commonwealth Christian, indeed, its wars must be waged with good character for the restoration of harmony with and setting up of godliness among the vanquished, who are, of course, our neighbours. Anyone who needs our help is our neighbour, and to help those neighbours who are our foes is a fulfilment of the law of love.

(1) Presumably James and John when they wished to bring down fire on the villages of Samaria.

Chrysostom set out Christ's commands to shew that they were made in an order of increasing difficulty. Firstly, we must not do wrong. Secondly, retaliation must be wholly just. Thirdly evil must not be returned. Fourthly, we must be willing to endure even more evil than the attacker wishes to offer us. And instead of hating the attacker, we must help, love and pray for him.

Despite the strain of obeying such commands, the writer of the Glossa Ordinaria said that the Church fulfils them, and that the notion of hatred in the Old Law arose from the notion of a Jahveh of battles. Jerome complained that many think of their own weakness rather than of the power of the saints and so rest content with the virtue of not hating. Christ, he said, expects more than natural goodness of his followers, for whereas sinners shew natural kindness to those who love them, Christians ought to have even more love for those who do not. Christ commanded not impossibilities but perfection.

Augustine mentioned passages which do not advocate loving the enemy, and suggested that the 'enemy' in such cases must mean believers who sin.⁽¹⁾ Some saints, he said, have gone so far as to pray for the eternal damnation of some souls, but in so doing they were hating sin and not the sinners for whom, indeed, it is seemly

(1) Thus Stephen prays for his murderers. But Paul did not pray for Alexander, a Christian, since he had attacked the brotherhood through jealousy.

to pray. For sin is only overthrown by the correction of some sinners and the eternal damnation of those who abide in it. When St Paul said certain men are hateful to God, he meant, that they are hateful for the evil that is in them, but we must love them nonetheless for that which is good, that is, their rational human nature.

Even when we see justice done, said the writer of the Glossa Ordinaria, our minds must be free of ill feelings. We do not resist evil because we believe God punishes without the urging of the saints. On the other hand, since no love is higher than love of our enemies, to love them is to love as perfectly as God Himself.

Although the Catena makes clear how hard it is not to resist evil and to love the foe, it does not suggest that these commands are laid on the few only as counsels of perfection but treats them as binding all Christians. 'Love your enemy' has, in fact, never been regarded as a counsel but always as a command. Since in this passage it is so much part of the general argument against resistance, it is impossible to consider the other injunctions as less important or less binding. Rather is such teaching set forth as a rule for all, and one which points directly to the true end of human life.

Here again Augustine sought to reconcile this teaching with material resistance, whether by an individual or by a group in war. Like Aquinas in his ruling on killing in self-defence, Augustine sought to do this by keeping apart deed and intention.

His reading of Christ is that sometimes we must resist by love only, but at others by brute force in a spirit of love. Even so, he seems to have thought St Paul right not to pray for sinning Christians. Augustine thought it more rational to pray for non-Christians than for faltering ones.

In his commentary on the Sermon on the Mount,⁽¹⁾ Aquinas wrote of turning the other cheek and of non-resistance that it leads to 'fulness of perfection' and is of the essence of the New Law, which means in particular both enduring all things and doing good. With reference to bodily attack this counsel means that no revenge should be sought and that any amount of ill must be endured. The Old Law teaching forbidding revenge and that of the lex talionis he sought to harmonise by separating into private and public rules. Thus, 'an eye for an eye and a tooth for a tooth'⁽²⁾ was a social law meant to hold back controlled personal revenge, whereas, "Thou shalt not avenge nor bear any grudge against the children of thy people"⁽³⁾ was meant to forbid personal revenge directly.

(1) Evangelia S. Matthaei et S. Joannis Commentaria, Tomus Primus, pp.92-6.

(2) Exodus. XXI.24.

(3) Leviticus XIX.18.

This assumes that personal revenge is likely to be more savage than social, and that social morality is higher than personal. However, Aquinas applied Christ's teaching only to individuals. He thought of the evil of which Christ spoke as separable into bodily evil, damage to property and enforced labour. Against one's own sin, of course, one must fight tirelessly. And all evil Aquinas found partly the penalty for one's own sin and partly the result of the sin of mankind. Nevertheless, in spite of this collective element in all evil, he still kept apart private evil and public evil,⁽¹⁾ and this allowed him to interpret the unqualified command "Resist not evil" as forbidding non-resistance to public evil for all persons. Whereas legally authorised defence is a precept for subjects and princes alike, non-resistance is forbidden outright.

A private evil can be dealt with by discussion; or, when even flight is impossible, by unarmed defence by clerics and laity; or, when the defence is blameless, by armed defence undertaken by the laity;-

"... it is not lawful to clerics although to the laity by chance it may be lawful at the moment of offence, with a moderation of blameless defence..."

Clerics are commanded not to use arms, but the laity only counselld. Both, however, are commanded to keep revenge from their

(1) This in spite of the fact that in Jesus' command 'Love your enemies' the Greek word is echthros, which unlike polemios and duśmenes, can be applied both to a personal enemy, or to a political foe.

minds.

This exegesis is followed by a eulogy of non-resistance, nothing how Christ told us not only not to resist but to endure patiently that others might be converted by our example. 257

It hardly needs saying that here Aquinas overwhelmed Christ's simple words with natural law. Indeed, although he allowed the laity as individuals to follow the words of Christ, his wider meaning seems to be that it is often more sensible to go against them. Despite the fact that he thought this command was of the essence of the New Law, he allowed disobedience short of armed action, even to clerics. And throughout he assumed the words were spoken to individuals and not to societies. (1)

Such handlings or mishandlings of the text are ill-grounded, for neither the Bible nor the theory of natural law differentiates lay and clerical morality. The idea that, on the basis of teleology, a particular vocation calls for particular means towards its fulfilment does not, as has been seen, mean very much when the vocation in question is the general or comprehensive one of Christianity, and when the issue in question is a moral one. (2) From the Christian side, therefore, it is hard to differentiate morality on the basis of vocation, while from the natural law side it is unreasonable to inhibit at a certain point such a radical

(1) Yet "The Gospel has not one law of charity for individuals and another for States and nations - which are indeed but collections of individuals." (Benedict XV. Pacem Dei Munus, May 23rd, 1920)

(2) See above pp.152-157.

principle as self-defence. This rent in the harmony, like those between private and public morality and between intention and act, seems to yield proof that Christian and natural morality were not really reconciled, for Aquinas held on to the Christian teaching only by setting it apart as a command for specialist individuals, or as an intention which could be quite separate from the act.

Why Aquinas both forbade, in his commentaries, non-resistance to individuals acting in a public capacity, and further allowed them, in his natural law theories, to intend to kill, is not clear.⁽¹⁾ He reconciled Old Testament texts on retaliation on the ground that individual revenge is more savage than sober social justice, and, therefore, must be forbidden. This means that resistance and retaliation are not wrong in themselves, but only when they are enacted by a wrong authority. Such a view underlies the commentary on Romans XII. 19,⁽²⁾ in which Paul's teaching on non-resistance is taken to mean that God is a more perfect revenger, and that He administers His revenge not through individual but only through public authority and public justice. As public justice is allowed the intention of killing, there can be nothing wrong with such an intention in itself.

Professor Ramsey sees the gap between the two moralities as even greater in the writings of Augustine, who he thinks allowed no individual self-defence at all.⁽³⁾ Professor Ramsey argues that

(1) See above pp. 276, 308.

(2) See above pp. 166-167.

(3) War and the Christian Conscience, pp. 35-39

Augustine had no grounds for justifying Christian participation in war because of its justice, for had he allowed this he would have been bound to allow it to individuals too. Although there is some likeness between the positions taken by Augustine and Luther,⁽¹⁾ Professor Ramsey thinks that Augustine was not so much anticipating Luther as simply upholding the representative nature of the existing political authority and persuading Christians to fall in with it out of 'earthly love' rather than out of justice or Christian love.⁽²⁾ If this was Augustine's meaning, he was not so much justifying war as making it out to be an activity in which Christians could allow themselves to be guided by the majority opinion.

The idea that a prince or public authority is likely to be more just than individuals was shared by Augustine and later just war theorists, and Professor Ramsey thinks it lies behind their allowing more power of retaliation to authority than to individuals. It lies behind Aquinas's interpretation of the Old Testament view of retaliation and of Romans XIII. It is this mistrust of the individual as either just or inspired by God which colours Aquinas's exegesis of the Sermon on the Mount.

(1) Professor Ramsey quotes Luther's Secular Authority: To What Extent It Should be Obeyed, Works III.242:

"In what concerns you and yours, you govern yourself by the Gospel and suffer injustice for yourself as a true Christian; in what concerns others, you govern yourself according to love and suffer no injustice for your neighbour's sake. (Ramsey: War and the Christian Conscience, p.38) (2) pp.15 - 33 and pp.38-9. Ibid.

'... Augustine was more correct and realistic in believing people to be bound together more by agreement of will and purpose than by agreement in their general conceptions of justice.' (Ibid., p.32.)

But Aquinas seems to have been unaware of the great difference between a negative command meant to withhold individuals from any retaliation beyond what is not in itself wrong simply because they are untrustworthy individuals, and a positive command of perfection, holding forth non-resistance as absolute and right in itself, aligned with a positive and constructive attitude of love and forgiveness and generosity, and based on trust in the ability of man to behave in this way. As Aquinas certainly thought of the teaching of Jesus on non-resistance thus, as of the essence of Christianity, and as pointing clearly to the highest human end, and as not limiting but helping humanity towards fulfilment in love, he might have been expected to make it an ideal for individuals and societies alike. Especially as he presumably thought that social morality was likely to be more perfect and more representative of God than private.

On the other hand Aquinas also thought of the command not to resist as not necessarily right in itself and as needing to be conditioned. In this sense his forbidding the intention to kill to individuals must be grounded on the need to limit individual vengeance and not on essentially Christian love.

Aquinas's natural law teaching, therefore, does little to bring together natural morality and Christianity on this point. In practice in fact it would be imprudent for an individual under attack to wait for God's justice to be expressed through society.

Delay in the name of social justice may help the attacker more than the defender. Indeed, if individual defence is allowed at all, the defending individual does in fact take the law into his own hands. Aquinas's attempts to combine his natural and Christian attitudes, then, resulted in confusion rather than in a satisfactory compromise.

War is another matter. Nevertheless, it is hardly reasonable to think of individual self-defence and public defence as so unlike that the morals of conducting them contradict each other. The decision whether or not to take part in such a war and in what way is individual, even when it means no more than assenting to submit to authority. Aquinas thought individual conscience the supreme authority. Professor Niebuhr and Bishop Dunn, who complain that pacifists apply an individual ethic to a social problem, nevertheless agree that

'... in the final analysis the individual conscience is the arbiter of the concept of a just war...' (1)

The individual Christian mind has to reckon with the collective Christian view of a situation likely to start war, and to take into account all objective and political factors in making its decision, but nevertheless that decision is an individual one.

(1) Articles in Christianity and Crisis. Vol.XV.No.10. June 13, 1955.

Aquinas's separation of public and private evil is, indeed, questionable. For the symmetry of theory the concept of public evil is useful, but it has less reality for human beings than the evil which, even in war, comes to its destructive rest in individuals. It is easier to consider separately individual evil than public evil, for the former is both more fundamental and comprehensive and elements of it remain even in the latter. The act of killing involves men in a strangely intimate relationship. War lays its hand on all aspects of individual life, for it invades, disturbs and destroys the most sensitive and deepest loyalties and feelings. Nothing touches the individual so closely and completely as death.

Private evil, indeed, cannot be left out of the reckoning in dealing with the collective problem of war. The answer to the latter is likely to be influenced by the answer to the former. It is logical to say that if individual killing in self-defence is allowed so can collective defence against collective attack be. The wonder is that Aquinas should have been satisfied with inconsistency.

Aquinas did not consider the possibility of a war being just on both sides. From that point of view his answer was a collective and not an individual one, and he overlooked the individual justice which might rest on both sides. But his acceptance of the right

of self-defence could mean that once the just had started to fight their unjust foes, then the latter could, as individuals without intention to kill, or as public representatives with intention to kill, justly defend themselves.⁽¹⁾ If this is true it means that the just war theory disintegrates at the moment of attack, and war becomes a chaotic collection of human individuals defending themselves with more or less organisation. And this political organisation or sense of social cohesion is as likely, in the heat and fire of the fighting, to be shot to pieces and to disappear, as anything else.

This must be even more the logical conclusion of those who although they still hold the doctrine of the just war yet see more clearly the impossibility of one side having a monopoly of justice. This Professor Ramsey thinks was the view of Augustine, whose insight into the doubtful and relative moral value of all social and political institutions and the earthliness of that justice which must justify warfare means that he could never have regarded only one side as fighting justly. Even so Professor Ramsey thinks Augustine had

'... a confident enough judgement as to a Christian's responsibility in justifiable (if not unambiguously just) war' (2)

which illustrates the discriminative ability Christian ethics give men and leaders. They may not

(1) He nowhere considered whether individuals on the unjust side, defending themselves in war are justified.

(2) War and the Christian Conscience, p.32.

... "know enough to compare unerringly the overall justice of regimes and nations"

but should have

"... a capacity to know more clearly and certainly the moral limits pertaining to the armed action a man or a nation is about to engage in." (1)

The justice of war is thus at its best rough and approximate; one side may be approximately more just than the other, but the advantage is weakened by increased sensitivity to the justice on the other side and the more one thinks in terms of individual justice.

Professor Ramsey thinks that Augustine's attitude springs from his thinking of political community in terms of agreement of will and purpose rather than agreement about justice, but that by the time of Aquinas the natural law understanding of justice was central in the 'analysis of the cause that justifies participation in war', giving it its usually accepted meaning. Professor Ramsey, however, thinks Augustine was nearer the truth.

A further development was concentration on rules for the right conduct of war, and Professor Ramsey thinks that although this has often been thought the weakest part of the traditional theory, it is one far more within the scope and competence of reason than analysis of just causes and ultimate consequences.

Since any killing is wrong in itself, however, it can only

(1) It would be easier to have faith in such discrimination of Christians on both sides correspondingly agreed.

be justified in terms of motive and end.

Certainly, the particular political and social elements of war are important, and not least in the minds of those who contemplate the problem. Many thinkers regard it as an exclusively social problem. It is therefore necessary to study the political aspects of Aquinas's theory of natural law.

CHAPTER SEVEN

AQUINAS'S THOUGHT ON POLITICS AND JUSTICE IN RELATION TO WAR

Since warfare has been generally recognised as one of the most significant manifestations of political life, the question of its morality is likely to be related to that of the relationship between politics and the natural law, between the ius gentium and the ius naturale, and to the significance of the latter itself.

Before Aquinas,⁽¹⁾ war, together with slavery, was often thought the main cause of government and political institutions,

(1) "Slavery was an immemorial institution, the effect of sin in general and of war in particular, for the ius gentium countenanced keeping your enemies in captivity." (Thomas Gilby: Between Community and Society, pp.146-7.) Also see pp.204-5 above.

whether these were thought sinful or perfect. The identification of ius naturale and ius gentium made it possible to think of slavery and private property as rational and just consequences of circumstances such as war.⁽¹⁾ Such identification may imply the essential humanity, and, therefore, the natural imperfection of both ius naturale and ius gentium rather than the essential divinity or perfection of both. Wherever it occurs, then its actual significance must be carefully looked into.

'One law for the ass and the ox is oppression.'

The precise meaning given to natural law by those who would separate it from the ius gentium is important also. Ulpian, who identified human natural law with animal tendencies, might be thought of as regarding the ius gentium as a higher because more distinctively human law than natural law. Nevertheless, he accepted slavery as according to the ius gentium, and the distinction may be one of degrees of universality rather than of morality.

It will be remembered that Professor Carlyle suggests

(1) See pp. 201-2 above.

that it was the problem of slavery, generally acknowledged as arising from warfare, which first occasioned the distinction between the ideal law and natural institutions, and that Professor Carlyle, Professor MacIlwain and Professor D'Entreves agree that this differentiation was one of the most outstanding tendencies of the Corpus Iuris Civilis, and that it was Ulpian's view that is that not only were the two distinct but that the ius gentium was of later historical origin and its content the result of strife and war, rather than that of Gaius that later jurists followed.⁽¹⁾

It would appear to be generally agreed, therefore, that warfare is a main expression of that sinfulness which caused and occasioned government and political institutions. If so, it is hardly adequately described as a 'circumstance' and would seem to be more truly defined as a 'departure from innocence'. If warfare and its consequent slavery are really prior to government they to some extent stand outside it as ills which it attempts to deal with. War and slavery are therefore more sinful than government, so it is likely that all warfare, even

(1) See pp. 203-4 above: "so that the weight of Roman law was ultimately added to the influence of the philosophic views of Seneca to combine with Genesis in forming the theories generally accepted in the Early Middle Ages on the question of the origin and nature of social institutions such as slavery and government, that is that they are due to a departure from innocence."

that waged by governments, should be similarly sinful.

On the other hand, if warfare, slavery and government are equal expressions of sinfulness, the latter is not superior. It is true that warfare is inevitably associated with political life, so that neither way can governments or warfare be considered sinless.

This understanding of warfare as the sinful cause and occasion of the institutions and rules of the ius gentium and as an intrinsic weapon and manifestation of such institutions at least fits in admirably with the definition of the Fathers that the latter are the result of and the cure for sin. But this definition is itself questionable.⁽¹⁾ It is important here to distinguish between to cause and to occasion.⁽²⁾

(1) See pp.207-8 above.

(2) Much of Jesus' teaching is occasioned by sin in the sense that it presupposes most realistically the sinfulness of mankind. The higher and more refined the ethical law or action the more this is true. 'Love your enemies' is no command for a perfect society, neither is the demand that we should forgive seventy times seven. Most of Jesus' teaching takes into account such imperfection, the many prohibitions only prove the presence of the erring heart and mind, but these commands are never regarded as imperfect because of this: no more should political rules or activity because they too have to rule for an imperfect condition of men and society. The contrast between Jesus' teaching and man's inability to obey it emphasises that it is in itself something quite perfect. The Crucifixion may be regarded as the supreme example of something which is both caused by and a cure for sin, but here again, the contrast between the sin and Jesus' attitude to it, is complete. But such a complete separation at such a moment of paradox is possible only for Jesus, or for someone as sinless.

It is quite possible for something to be both occasioned by and a remedy for sin and to remain itself quite sinless. But if it is the result of sin in the sense of being caused by it it must, on Aquinas's own analogy of cause and effect, itself share the corruption. And the suggestion that such institutions are a cure for sin also provokes suspicion. It is unlikely that the institution whose corruption is caused by the sin whose chief expression is war should be able satisfactorily to transcend it. Or if war is merely a general expression of the general imperfection of man, it is unlikely that politics, another expression, will be superior.

War in itself involves the conflict of two groups and, therefore, a certain amount of organisation which can be regarded as embryo government. The suggestion that government in general is the ideal cure for such warfare is dubious, in that any government is limited and prejudiced and as likely as not to extend the quarrel. War's responsibility for political institutions has probably been overstressed. It may have been accorded such importance because it is a dramatic expression of the more general disorder of human life, a disorder which is bound to overflow into efforts at social or

political organisation. The ius gentium should be an organisation against chaos. It should not seek its ends merely by organising the chaos of war more efficiently, for its true business should be to organise it out of existence.

The theory that governments are both caused by and a divine cure for sin reached an apotheosis in the doctrine of the divine right of kings. The government which was acknowledged as being caused by sin was by divine inspiration held to cure or counteract it. This, in fact, introduces a new type of law or institution which transcends the normally accepted conceptions of both natural law and the ius gentium. It does at least make the point that religion is as much concerned with social and political activity as with individual and subjective aspects, and that it comprehends natural law and the ius gentium and has final authority. How the divinely inspired ruling on warfare differs from natural political ruling is of great importance.

In following Augustine's war theory, Aquinas followed one who both held a comparatively low opinion of politics and yet was the chief reconciler of war, a powerful instrument of

politics, with Christianity. As he ranked politics far higher than Augustine did, Aquinas probably had little difficulty in thus accepting the former's attitude to war. Father Gilby suggests that Aquinas did not hold warfare as so sinful as did the Augustinians because he accepted the earthly nature of politics as essentially healthy:

In discussing the warfare inherent to individuals and groups, St. Thomas cannot, so easily as the Augustinians did, ascribe it to sin. In his view, original sin is seen as a loss of privilege, not as a radical corruption of nature. He sees no offence in the impolite origins of political institutions for civilisation itself is warmed by the closeness of bodies. No doubt a sort of blight does lie over animal nature, but all life-forces in themselves are essentially healthy, (1)

Here Father Gilby seems to accept warfare as one of the healthy natural origins of political life, and at the same time to suggest that to Aquinas it was not blameless, later he describes it as a particular sin.⁽²⁾ Indeed, he points out that in spite of the fact that Aquinas accepted the natural

- (1) pp.139-140. To what extent civilisation is truly warmed by that closeness of bodies which is warfare might be questioned. It is rather like being grateful for the welcome warmth of incendiary bombs.
- (2) "Slavery was an immemorial institution, the effect of sin in general and of war in particular..." (p.146)

world more contentedly, ⁽¹⁾ he 'shared St. Augustine's sense of men's first birth from, and into, a universe of corruption swayed by lust'. ⁽²⁾

It seems quite evident, therefore, that, for Aquinas, however much heaven itself might benefit from political organisation, the actual roots and conditions of government, as of any human activity here on earth, were tainted by sin. Aquinas could not have looked upon the expression of war after the fall as sinless even if he countenanced the possibility of war as a heavenly measure.

Professor d'Entreves also thinks that Aquinas did not 'in all respects directly and categorically contradict the older explanation of those institutions as the result of and

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- (1) "Evil seems to loom larger before St. Augustine than before St. Thomas. Original sin, identified with what we suffer and do in concupiscence, is less neatly distinguished from actual sin, and the blame is more personally applied... He manifests no cheerful belief in a sunny paganism, but his outlook, to judge more from his dialectic of ideas than his sparing rhetoric of terms, is more optimistic." (p.136.)
- (2) "Political as well as theological science is all the better for appreciating, pitifully and perhaps angrily, how base is our natural lot, and how, by our first birth, we spring from a vast descent-group, moved and perpetuated by lust, a reproductive instinct which runs through our animal nature like a common will, at once self-seeking and co-operative. Neither St. Augustine's identification of concupiscence with original sin nor his sardonic tolerance of the earthly city was copied by St. Thomas, to whom the physical world was less disturbing and who was, perhaps, also more disposed to welcome what cannot be escaped from. Both were misogynists, St. Thomas in a more offhand manner, but neither shrank from the world like a prude; both possessed a strong and almost traducian imagination of all men merging from the race, dripping with its ooze sharing in a common lapse, hoping in a common promise." (pp.129-130).

the divine remedy for sin', but he stresses that for Aquinas sin had only weakened human strength to obey natural law. Knowledge of the latter was still within reach of the human mind in the fallen world, and the business of government was to see that politics work out in the light of such knowledge.⁽¹⁾ Aquinas believed that the virtue of politics was that it was natural to human beings. Like Aristotle, he thought that the ideal political unit was a city or province, and that man is by nature a social and, therefore, a political being, for as people are unequal by nature society needs the organisation of government. This social instinct is one of the fundamental impulses of the law of nature,⁽²⁾ and since men are unequal by nature it is for the good of all that the best, most intelligent and most capable should serve the community by ruling it for the good of all. Aquinas thought that complementary compulsion and obedience would be needed even in a state of perfection.⁽³⁾ There is hierarchy among the angels. It was on such inequalities, which many Christians have thought belittling to personal freedom and dignity, that Aquinas grounded his understanding of ius gentium.

(1) D'Entreves: Aquinas, Selected Political Writings, p.xiv.

(2) See above. p. 272.

(3) S.T. l. Q.96. Art.4.

That the ius gentium was universally regarded as both caused by and as tolerating slavery, the result of war, and the fact that Aquinas tended to think both the ius gentium and human inequality natural and good suggests that he might have accepted slavery as naturally good also. In fact his attitude appears contradictory. As Father Gilby says, he

'... is not at all squeamish about adopting Aristotle's argument that some men are bound to be slaves'

and yet he

'... thoroughly disapproved of one man owning and treating another as a utility.'⁽¹⁾

In general he opposed slavery as a sin,⁽²⁾ and he should, therefore, have thought that war, the cause of such slavery, was a sin too, and that the justification of it under the ius gentium was likewise sinful.

But political subjection Aquinas considered as of a different quality, and quite fitted to a state of innocence,

(1) p.147. He quotes. S.T.1. XLVI.3; XCVI,4; 1.11.XCIV.5. ad 3; 11. 11. X.10; CIV.5.

(2) "There are two forms of subjection. The first is servile in which case the master makes use of his servant for his own convenience, and such subjection began as a consequence of sin." (S.T.1.Q.92. Art, 1. ad 2.)
 "The first sort of dominion which is servitude did not exist between man and man, in the state of innocence." (S.T.1.Q.96. Art.4.)

for even before the fall, he held, there would have been some who ruled for the good of the ruled who nevertheless remained free. Aquinas's distinction between a slave and a free man is Aristotle's. A free man is 'one who is a master of his own actions',⁽¹⁾ while a slave is completely under the control of another. And when he states that a person rules another as a slave if the latter is ordered about solely for the benefit of the ruler, he admits that elements of slavery can exist in politics, or in any relationship where one loses freedom, and is exploited for the selfish satisfaction of someone else. Aquinas^{and} the Augustinians, therefore, would agree that politics and war after the fall are evil, but they would differ about their fitness for the world before the fall.

Political organisations and activities, including war, then can be sinless only inasmuch as every man remains free to accept or reject such organisation. For if a man is controlled against his will, even for his own good, he can hardly be described as remaining free. At the same time politics can only be justified if men are organised for their own good.

(1) De Regimine Principum, lib.1. cap.1.

This union of freedom and control, and the coincidence of self-will and co-operation, are one aspect of the identification of natural law and the ius gentium. However desirable this identification may be as an ideal, Aquinas was unrealistic if he believed that it could ever be perfectly achieved on earth.⁽¹⁾ Such credulity would seem to be parallel to that of those who believe that what is caused by sin can cure it.

Comparison between the natural law and the ius gentium in Aquinas is needed because in spite of the fact that men are unequal by nature, natural law itself teaches the moral equality and freedom of all and the adequacy and supremacy of individual knowledge and the individual conscience, whereas the ius gentium involves in practice, compulsion, lack of freedom, and is based, to a large extent, on unequal responsibility for moral judgement.

Dom Lottin⁽²⁾ stresses that although in medieval times ius and lex were used interchangeably, nevertheless ius meant

(1) Aquinas does admit that 'the particular interest and the common good are not identical,' but he seems rather too optimistic about the ability of politics to harmonise them. (De Regimine Principum. lib.1.)

(2) Le Droit Naturel Chez St Thomas d'Aquin et Ses Prédécesseurs, p.97 ff.

far more a principle of order than of moral obligation. He says that Aquinas departed from Albert the Great who rejected the Roman definition of natural law as common to man and animals, and followed Bonaventure who accepted it.⁽¹⁾ Here, Dom Lottin is presumably concerned with Ulpian's definition; ius naturale est quod natura omnia animalia docuit. Aquinas also accepted the Roman conception of ius gentium as the specifically human natural law. This would make the ius gentium more rational, essentially human and, therefore, superior to the natural law.

Gratian, says Dom Lottin, wrongly confused natural with divine law, by deriving natural law from the well known double precept and by adding; 'which is contained in the law and the gospel'. The decretists were unable to contradict this identification, although later ones put it in the background. Albert the Great saw in it a general sense of natural law. Bonaventure considered it as the least precise of the definitions. Aquinas mentioned it in the Commentary on the Sentences but preferred the definitions of Cicero and the Roman jurists which express the intrinsic naturalness of natural law. Like Albert the Great, he grounded natural law in human nature, and, again

(1) For his exposition of the following argument see Le Droit Naturel Chez Saint Thomas d'Aquin et Ses Prédécesseurs, pp.61-67

like Albert, held that reason is ideally mistress of all human tendencies. Dom Lottin reckons that on the whole Aquinas preferred Ulpian's definition, although this meant accepting as natural certain human characteristics which, being common to man and animals, are not rational.⁽¹⁾

Aristotle divided all laws into iustum legale and iustum naturale. Aquinas included the ius gentium within the ius naturale of Aristotle, which comprehends the tendencies man shares with animals, such as procreation and parenthood, and Lottin feels that this closer identification of natural law and ius gentium is faithful to the spirit of the institutes. As pointed out before he differs from others on this point.

However, when he discussed Isidore's definitions Aquinas changed his ground. In one definition Isidore divided all laws into human and divine, natural law being part of the divine. Elsewhere he divided laws into ius naturale, ius civile and ius gentium.

'Et voilà, d'après Isidore interprété par saint Thomas, le ius gentium voisin du ius civile et nettement séparé du ius naturale.'⁽²⁾

He thus had to reconcile these two positions, the one which

(1) Lottin. pp. 60 - 67
(1) Lottin. p. 64.

separates the ius gentium from the ius naturale, and the other which identifies them. He did so by explaining how human law could derive from natural law. Firstly he said, it could be deduced immediately from first principles. The human law 'Thou shalt not kill', for example, is an immediate deduction from the first principle 'Thou shalt not do evil'. Such laws belong to the ius gentium. Secondly, it could arise as an answer to a particular situation. Thus, the law which assigns a particular punishment to a particular crime springs from the general law that all crimes are punishable. Such applications make up the ius civile. He thus stressed that the ius gentium derives from natural law as a conclusion. Man, he seems to say, is naturally rational, and so naturally makes deductions; the deductions which form the ius gentium

have been acknowledged among all peoples because they are so close to first principles; in this way ius gentium participates in natural law; ius gentium, therefore, is natural law for human beings.

ius gentium est aliquo modo naturale homini
secundum quod est rationalis.

Nevertheless, he held on to the Isidorean distinction between natural law and ius gentium because natural law, unlike the ius gentium, is concerned with affinities between man and animals, even though he elsewhere was able to identify natural law and divine law. To uphold Isidore's position, therefore, Aquinas had to uphold Ulpian's distinction between ius naturale and ius gentium.⁽¹⁾ Dom Lottin sees this as another token of Aquinas's leaning towards the thinking of the Roman school. Aquinas seems to have found the question troublesome. In De⁽²⁾ lure he tried to reconcile the differentiation of natural law and ius gentium with the implication of Ulpian's teaching, that is, that ius gentium is so widely acknowledged among different peoples that its naturalness argues its oneness with natural law. There are two kinds of relationship, he said. Of these, the first arises naturally from the things related. Thus, the sexes

(1) Note how different is Grotius's position. He refused to agree that the affinities between man and animals could be related to ius. (See p. 202 above.)

(2) S.T.II.II. Q.47. Art.3. dig. 1 and 3.

are naturally fitted for procreation, and parents for bringing up their children. Sexual union and education, therefore, he called natural institutions. Other institutions, however, embody a second kind of relationship. Thus, the institution of private property is natural not because, for instance, it is natural for a particular field to have a particular owner, but because it is the reasonable way of bringing about the true end of a field, that is, its cultivation. The first kind of relationship arises from irrational instincts shared by all animals. The second kind, however, arises from a rational understanding of means and ends, and it is this second kind of relationship which betokens the nature of the natural law with which the institutions of the ius gentium can be said to be one. It was on such grounds that Gaius held ius gentium to be the specifically human law.

This is an odd analysis. Elsewhere, Aquinas held that only marriage, and not mere sexual union, is according to the natural law, ⁽¹⁾ and that marriage is a conclusion of reason contemplating experience. Such an understanding of marriage arises from the

(1) See above p. 273

first principle of natural law, that is, that all deeds must be reasonable. But when he set apart ius gentium on the ground that it is less irrational than natural law, Aquinas not only went against the whole drift of his thinking, but more or less implied that ius gentium must be a higher and more moral law than natural law, and, therefore, the nearer of the two to divine law. He also implied that politics, and therefore, political morality, is somehow set above individual morality. Such conclusions weaken faith in his consistency.

Part of Aquinas's difficulty may have been that having committed himself to an Isidorean position he was bound to conclude the humanity of ius gentium, which is apart from natural law. Where he did not feel bound to defend Isidore Aquinas, although he took Isidore as his starting point, allowed his thought to grow more freely towards a bringing together of natural law and ius gentium in the general notion that for human beings the ius gentium is the natural law.

Apart from all such distinctions, however, the middle ages

took it for granted that politics should be inspired by moral standards. Professor d'Entreves says that the great difference between modern and medieval political thinkers is that the former give too much thought to particulars, whereas the latter worked from the underlying principles:

'They started from the beginning, not, as we do, from the end. And 'in the beginning was the Word': the supreme values, the standard of good and evil. Politics were to St. Thomas a branch of Ethics.' (1)

Whereas Augustine thought that politics was grounded in sin, Aquinas strongly believed that, in spite of the fact that since the fall politics was tainted, its roots run down deeper and arise from primal nature. On the one hand, the common good which it seeks is a higher one than that of the individual or family, and this gave it a high moral standing. On the other, Aquinas's belief in the higher end for human beings revealed by Christ withheld him from an Aristotelian glorification of the state as the highest reach of human life, and preserved the dignity and freedom of the individual. As so often Aquinas was perhaps too ready to take for granted the harmony of individual natural law, political natural law, and divine law.

(1) p.viii.

Professor d'Entreves emphasises that because Aquinas believed that grace perfects rather than abolishes nature, human values and truths in the world of ethics and politics are not necessarily obliterated by the revelation of higher ones, but should be considered 'as possible tools for the great task of building up a Christian civilisation.'⁽¹⁾ These human values are those of the law of nature, and can be identified with justice. Human justice is 'not vitiated by sin nor absorbed in the glare of absolute and divine justice.'⁽²⁾ But although the notion of natural law as justice is the core of Aquinas's political theory, Professor d'Entreves stresses that such natural law is grounded on natural cosmology and not on natural individual rights:

'... from the notion of a world well ordered and graded of which law is the highest expression, natural law is like a bridge, thrown as it were across the gulf which divides man from his divine Creator.'⁽³⁾

Through natural law's participation in the eternal law, natural law is the pattern of all positive legislation, but it stresses the essential duties of government and political allegiance rather than the rights of the individual.

(1) p.xiii.

(2) p.xiii.

(3) pp. xiii - xiv.

With all respect to Professor d'Entreves this seems a confused statement. However much natural law may participate in the eternal law it was, for Aquinas, firmly grounded in the individual synderesis, and sets out individual duties by which individual rights are correspondingly established. Besides, whatever may be meant by a plan of creation, the universe yields no ready-made pattern for political behaviour. A political society has to be made by individuals through laws and these lay down social rights and responsibilities. Moreover, a political society is only part of society in its full meaning, which orders its relations by divine law as by natural law. ⁽¹⁾

Professor d'Entreves considers that Aquinas reconciled Aristotelian ethics and politics with Christianity by distinguishing carefully between the spheres of knowledge and action, the spheres of the speculative and the practical sciences. It was only in the latter sphere, he says, that Aquinas upheld the Aristotelian notion of the overwhelming importance of politics, whereas in the former, he implies, Aquinas gave first place to religion. However, this division is too sharp, for religion as Professor d'Entreves shews when he writes 'In the beginning was the Word', is concerned with the source of earthly

(1) Indeed Professor d'Entreves suggests that the Eternal Law transcends natural law when he says that the natural order which comprises and sufficiently justifies political experience, is for St. Thomas only a condition and a means for the recognition of a higher order, as natural law is but a part of the eternal law of God. (p. XV.)

life and is not limited to the speculative world. Still, it seems to be on the strength of such a division that Aquinas allowed only hermits and saints, whom he presumably regarded as living a contemplative life, to remain more or less oblivious to the demands of political obligation.⁽¹⁾ Indeed he took their oblivion as a sign of perfection rather than of negligence. So although politics was usually seen as part of a wider scheme, Aquinas allowed the perfect man, whom he identified with the self-sufficient man, an utter indifference to political matters. This suggests that divine law is all-sufficient and that there is no need for the political natural law for Christians.

Political natural law, however, does in fact preserve certain natural and Christian rights, or as Professor d'Entreves puts it:

"Though the emphasis is never on 'natural rights' in the modern sense, the action of the State is delimited by objective rules of justice which ensure the respect of the fundamental demands of the Christian conception of human personality." (2)

Yet these very laws which 'protect' the Christian conception

(1) Comm. on the Politics, lib. 1. lect. 1.
 (2) Aquinas, Selected Political Writings, p.XIX.

of human personality¹ are not in themselves enough to achieve its fulfilment. The state can achieve human perfection neither for the individual nor for the community. Indeed, Aquinas thought of such perfection wholly in a personal way, and so he could hardly have expected revelation to light the way to highest political good. The weight he allowed to conscience means that individuals are still individuals within the state and lose none of their individual standing by being part of it. There can be no question, therefore, of Aquinas putting individual good below political good on grounds of individualism, for he allowed individual religious perfection to rise above political. Indeed he made it the end towards which the state should move. Even within the state individualism has the further institutional safeguard of the church. Church and state he saw as complementary kingly powers by which human perfection could be achieved. He was careful, of course, to put the earthly power below the heavenly, and the idiom of the kingdom is not easy to handle when the metaphor has to be teased out rationally. But for Aquinas the two kingdoms were one in Christ.

Professor d'Entreves points out the unbending religious

nature of the state:

"... But when we come to examine the actual working of this indirect power, we do not only find that, as could later be said of the Jesuits, what is granted with one hand is immediately withdrawn with the other.

We also find that the matters which the State is supposed to leave to the Church are precisely those which the modern man has struggled for centuries to secure against the interference of Church and of State alike.

----- Medieval intolerance had at least one great advantage over modern totalitarianism. It subtracted entirely the definition of orthodoxy from the hands of the politician. It put a bar on Erastianism. It would never be allowed that 'the General Will is always right'. It was an intolerance of a different and more noble brand. But it was intolerance all right, and a thorough, totalitarian intolerance." (1)

Aquinas neither saw reason for ending powers of excommunication nor allowed himself soft-hearted feelings for those handed over to the secular arm for punishment. (2) This, as Professor d'Entreves says, 'casts a sinister light on St. Thomas's teaching', and it yields something of a parallel to Aquinas's ruling on the part played by clerics in war. For Aquinas, church and state were a unity of diversity of such a kind that the authority of an infidel government

(1) pp. xxi - xxii.

(2) p. xxiii.

only loses its authority over the faithful if the church declares that the state threatens religion. An excommunicated ruler, for example, has no right to the obedience of his subjects.

It should be kept in mind that the notion of a universal empire of Christendom as a political possibility had already faded into the past in Aquinas's time, but its place had still not been taken by the modern notion of the national state. The widely understood political unit was the city state which was held to be an ideal community fitted and having authority to make its own laws. Universalism in Aquinas's writing is found only in his natural law teaching and in the widely held belief in an ultimate union in the mystical body of the church. But such a union was outside practical politics, and Professor d'Entreves makes the point that although Aquinas grounded political authority in the consent of the people, and even urged participation in politics upon them as a duty for the common good, he did not allow them any natural rights because he held that even if there is a human source of authority, the authority itself is God's. The former is causa materialis, the latter causa formalis.

For Professor d'Entreves, then,

'... Natural law is the insurmountable barrier against which the will of the state is powerless. We are led back once again to the defence of certain supreme ethical values which is the gist of St. Thomas's theory of politics... Politics are subordinate to Ethics. Natural law is the guarantee of that subordination...' (1)

But for Father Gilby, who, among later commentators at least has shewn the most lively imagination in seeking both to understand the thinking in itself and to throw light on its backward and forward looking significance, Aquinas was right in keeping politics to a great extent apart from ethics and for not treating the former as an extension of the latter:

'... Its decisions are not wholly reducible to the rules of morality, nor, for that matter, to any rules at all...' (2)

Civil law is similarly independent of ethics and even of religion. (3) Indeed, Father Gilby rates common sense above moral idealism in politics. (4) and gives the impression that Aquinas would have agreed with him. Father Gilby does allow that in the Summa Theologica politics was treated explicitly

(1) pp. xxx - xxxl. ST

(2) p.13. He quotes I.11. XCV.2.

(3) "Civil law is an art with its own proper character, not deriving from ethics: political authority and the Prince have a majesty not shed on them by religion." (p.67)

(4) "It is arguable that the Church has been better served by good bad Popes than by bad good Popes; it is certain that Edward I was a better king than the Confessor." (p.82)

Father Gilby adds that this presence of both rational and non-rational elements as are found in 'custom, tradition, habit, myth and sympathy' and in 'innovation, debate, exposition, criticism, judgment' within a political system is analogous to the balance of emotional and mental elements within the individual, and he thinks it would be dangerous to build a state on purely rational principles.⁽¹⁾ The analogy is not quite apt, however, for Aquinas allowed no authority whatever to personal emotions and insisted that they should always be under the rule of reason.⁽²⁾ Nevertheless Father Gilby notes with approval Aristotle's belief that 'natural friendship holds states together and that a wise lawgiver will put unanimity before justice', which would seem to leave morality at the mercy of political prudence. To defend such a position Father Gilby contrasts the Anglo-Saxon habit of regarding morality as an absolute in itself with the utilitarian ethics of Thomism. For the latter, the right is only a means to the good, duty to happiness, and the moral virtues are means

'to the higher ends of loving wisdom, a possession beyond the calculation of ways and means, and therefore beyond morality.'

(1) p.221.

(2) p.221. See p.240 also. "For one reason, nature as manifested in custom is freer, more flexible and adaptive to circumstances than are such rigid artifices as law:... Hence the importance of tradition even in advanced societies... The prevalence of popular habit as against governmental edict is a social trait in a free country."

(3) pp.234-7

Although he does not hold the Augustinian idea of the state as 'a pragmatic accommodation to a world out of gear' and even sees in it 'an order of true justice expecting the higher order of friendship', he thinks the Thomist rather than the Anglo-Saxon attitude to ethics can be reasonably applied to the state insofar as it is not an end in itself. It should confine its attention to outward relationships and act as a general overseer of temporal justice rather than as an advocate of good causes.⁽¹⁾ The ruler's business is to organise what is politically practicable, not to advocate theoretically high-minded principles:

"It is by no means impossible that the day will come again when, given the men for the occasion, Europe is rescued from barbarism not by preachers of the Gospel, but by religious administrators unafraid of being defiled by touching pitch." (2)

There seem to be enough ambiguities in Aquinas's expositions of the relationship between the natural law, ius gentium and the divine law, and also in his understanding of the natural law itself -- at one moment it is regarded as eminently rational, at another as particularly irrational⁽³⁾ -- partly to account for such Thomistic contradictions. But that such eminent scholars

(1) pp. 234-7.

(2) p. 88.

(3) See pp. 251, 334 above.

as Professor d'Entreves and Father Gilby reach such diverse opinions weakens still further faith in the widely held belief in Aquinas's consistency. Father Gilby stresses the non-rational and amoral sides of politics so much that his understanding of them is generally pagan and only incidentally Christian. If this were a right understanding of Aquinas's naturalism, it would mean that as Aquinas thought revelation less than enough to deal with politics he fell back upon Aristotelianism, which could be all the more easily harmonised with Christianity because the latter has so little to say specifically about politics. Aquinas certainly gives the impression at times that politics is outside the sphere of natural and divine law.⁽¹⁾ And from such a position Father Gilby can reasonably say that politics stands self-contained and apart from ordinary morality. A conclusion from this is that warfare, being a social and community matter is also beyond the ruling of individual natural or divine law, and that though it may by no means be wholly good in itself it may be a not unacceptable course even for both sides in a conflict. For as he thinks

(1) "There is a three fold order to be found in man. The first is that which derives from the rule of reason; in so far as all our actions and experiences should be commensurate with the guidance of reason. The second arises from comparison with the rule of divine law, which should be our guide in all things. And if man were actually a solitary animal, this double order would suffice; but because man is naturally a social and political animal... it is necessary that there should be a third order, regulating the conduct of man to his fellows with whom he has to live." (S.T.I.11.Q.72. Art. 4.)

Aquinas was not likely to flinch from the expression of wild passions, he must have allowed that even the worst warfare had the virtue of being at least natural. Aggression is as natural as self-defence.

On the whole, Professor d'Entrevès's interpretation of Aquinas's political thought, that is that the state and political activities be restricted by natural law as well as by religion, seems to be the more correct one, and it is certainly the interpretation which appears most obvious from a reading of Aquinas's explicit statements on the question. Professor d'Entrevès mentions war as giving an interesting illustration of the function of the state. War he thinks an evil from the point of view of Christianity, but its evil has to be limited by justice. War is part and proof of the very existence as well as the authority of a state, while at the same time the rules of justice which should restrict it properly limit the state's power.⁽¹⁾ Here at least Professor d'Entrevès and Father Gilby share common ground, for the latter also believes that war should be limited by 'formal constitutional controls' which, no doubt, are an expression of that temporal justice which he thinks is the proper concern of governments.⁽²⁾

(1) p.xcix.

(2) p.222.

The significance of such agreement, however, depends upon what each means by justice. The consideration that Father Gilby tends towards an appreciation of the pragmatic, and Professor d'Entrevès towards the supremacy of religious values in politics at once emphasises that the concept 'justice' is of somewhat uncertain meaning. What Aquinas really meant by it, and whether it was for him a possible if not, indeed, the chief political virtue as well as the virtue most manifest in warfare, can perhaps be discovered from his discussions of it.

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Aquinas thought that as relations between people always depend on external factors, justice, which is exclusively concerned with the latter, is the only virtue which has as its sole end the good of others rather than of the self.⁽¹⁾ This

(1) S.T.11.11.Q.57. Art.1. and Q.58. Art.8.

definition would seem to identify justice with self-sacrificial love, and as politics is not an expression of the latter but the art of mutual self-interest, justice, therefore, would seem something more than the virtue fitted only to politics. Nevertheless, Aquinas emphasised again and again that justice is concerned with external actions, and went on to say, that it has nothing to do with the way in which an action is carried out.⁽¹⁾ He also insisted on the division between man's internal passions and moral virtues on the one hand, and his external actions and justice on the other, and stressed that the passions are inward and subjective whereas justice is concerned only with external actions, whether or not they are stimulated by the passions. The latter are not directed towards another person, though their effects, as external acts, may be.⁽²⁾ Aquinas did not at this point take into account the fact that such vices as hatred, selfishness, negligence or meanness may have external effects without causing external acts, although he did so later. The purely internal vices he acknowledged as having external effects even though they may not lead to any outward acts. But it would seem difficult to judge the truly internal vices as long as they remain unbetrayed by action.⁽³⁾ Aquinas did not think of

(1) S.T.11.11. Q.57. Art. 1.

(2) S.T.11.11. Q.58. Art.9.

(3)S.T.11.11.Q.60. Art.3.

passions and feelings as just or unjust, for he held that justice lies solely in their regulation by will in accordance with reason,⁽¹⁾ and although passions are the source of external acts, he did not allow that certain passions lead to good and just acts without the intervention of justice itself. An example of the rigid distinction Aquinas made is his statement that a man may take another's property not through desire to have the latter, but through the will to hurt the man.⁽²⁾ But he forgot that behind such an act, there is likely to be a desire to hurt.

Often, therefore, Aquinas defined justice as concerned wholly with outward appearances of morality, and took little account of motives. Justice appears to be that part of the prudential reason and will which is efficient in organising external actions in accordance with a formal state of external equilibrium. Other virtues are responsible for seeing that the actions are carried out from the right motives,⁽³⁾ though metaphorical justice, too, has some part in this task. Justice he regarded as more directly rooted in the intellect, which

(1) S.T.11.11. Q.58. Art.9.

(2) Ibid., ad. 2.

(3) "And so a thing is said to be just, as having the rectitude of justice, when it is the term of an act of justice, without taking into account the way in which it is done by the agent: whereas in the other virtues, nothing is declared to be right unless it is done in a certain way by the agent." (S.T.11.11.Q.57.Art.1)

alone has the universale good as its object, than the other virtues. It is essentially the work of the will acting in accordance with reason, and not of the passions.⁽¹⁾ It would seem, therefore, that justice is a right yardstick for politics. As its standards are based in reason they should be understandable and acceptable to all men, and should provide grounds for common judgement. Moreover, its concern with only external actions makes it easier for the comparatively impersonal art of politics to apply.

But Aquinas's conception of justice is not really quite as rational, objective, external and universal as this, for elsewhere he modified these expositions of it .

By grounding it in the will, for example, he made it seem more fitted to individuals than societies.⁽²⁾ When Aquinas agreed with Augustine that justice is 'the love of God and our neighbour' which pervades the other virtues, indeed 'the common principle of the entire order between one man and another',⁽³⁾ he made of it a virtue which cannot be confined to politics, and which therefore can hardly be realised by it. It is found also in individuals, among whom, as metaphorical justice,⁽⁴⁾ it is

(1) Because justice expresses itself in actions its source is most essentially in the will, which orders, dictates and achieves such actions. The will is nevertheless 'in' the reason. We are just through doing something just. (S.T.11.11.Q.58. Art. 4.)

(2) S.T.11.11.Q.58.Art.4.

(3) S.T.11.11.Q.58. Art.8. ad.2.

(4) S.T.11.11.Q.58. Art.2.

concerned with the harmonisation and regulation under reason of internal individual elements, and, as particular justice, in relationships between individuals.⁽¹⁾ There is an element of justice in all virtues inasmuch as such virtues have beneficial effects upon others.⁽²⁾ In this sense justice is definable as a general virtue. It is indeed this 'legal general justice' which is responsible for the efficient altruism of the other virtues. The name 'legal justice' is given to general justice on the grounds that thereby man is in harmony with the law which directs the acts of all the virtues to seek general good. Legal must here refer to the divine as well as to natural law.⁽³⁾ If, indeed, justice is identified with rationality, it does become general insofar as it becomes identifiable with natural law, and, therefore, with all morality.

The restriction of justice to external matters is connected

(1) S.T.11.11.Q.58. Art. 7.

(2) "Speaking in this way, legal justice is essentially the same as all virtue, but differs therefrom logically; and it is in this sense that the Philosopher speaks". (S.T.11.11.Q.58. Art.6.)

(3) S.T.11.11.Q.58. Art. 5.

with its relation to the other virtues, and this is also questionable. Justice was regarded by Aquinas as superior to liberality on the grounds that the just man considers the common good, while the liberal man is guided wholly by self-regarding motives.⁽¹⁾ According to his understanding it would be only possible to differentiate justice and liberality on grounds of intentions since their external acts are the same. Indeed the act of liberality is justice. Elsewhere he insisted that the motive or intention of an act is irrelevant to its justice, but here it is on the basis of intention that he puts justice above liberality. In the abstract, indeed, justice and liberality are equally universal, and in practice equally limited. The fact that virtue itself is defined as a faculty of doing good to others would seem to accentuate the inaccuracy even of a logical distinction between justice and the other virtues.

Similarly in his discussion on injustice, Aquinas recognised that all vices which detract from the common good have so far the character of general injustice, and insofar as they harm one individual they have the character of particular

(1) S.T.11.11.Q.58. Art.12. ad.1.

injustice. He allowed that justice does not have sole responsibility for, or authority over, even external acts, since the other moral virtues have some share in them. It is thus not easy to separate justice and injustice from the other virtues and vices. Moreover, Divine justice comprehends all virtues, and any sin whatever can be termed injustice before God, as the word 'iniquity' so aptly signifies. (1) But once religion is allowed into the consideration, justice becomes incalculable. Justice has to remain a human and limited value if it is to have any definable meaning, for we can never be just with God. And if how we stand with God is allowed to affect our relationship to others, human reason is at once shewn to be inadequate. Divine justice may even have its ground in the will of God rather than in reason. (2)

Aquinas hinted at the complexity of establishing justice in even purely human relationships. Although he did not deal with them fully, he saw that justice cannot always be maintained in a straightforward way since it is complicated by personal inequalities such as those between father and son and between slave and master. (3) Personal and subjective conditions, therefore, must be the concern of justice. In face of such differences

(1) S.T.11.11. Q.59. Art. 1. ad 1 and 2.

(2) S.T.11. Q.57. Art 2. ad 3; Q.58. Art.4.

(3) S.T.11.11. Q.57 Art.4. ad 2

justice requires that, whatever his station or need, each person shall receive his right or due. Here, then, natural law is concerned with rights after all, although Aquinas was careful to include justice within the larger love for God which, insofar as it is justice, cannot ever be fully achieved, because one can never render His due to God.⁽¹⁾ Religious faith, however, is regarded as a help towards the achievement of metaphorical justice.⁽²⁾ Charity alone among the virtues he allowed to transcend justice. The former has as its object both Divine and human good, whereas the latter seeks only human good.⁽³⁾ Justice is otherwise the cardinal virtue, to which and in relation to which other virtues, such as mercy and liberality, are but secondary.

Since Aquinas recognised formal (subjective) as well as material (objective) justice, he should not have restricted the significance of justice to external actions. And it is clear that he thought the former more important. Any action which is

(1) "The Divine law is not properly called ius but fas, because, to wit, God is satisfied if we accomplish what we can" (S.T.11.11.Q.57.Art.1 ad.3)

(2) S.T.11.11.Q.58. Art.2. ad 1.

(3) S.T.11.11.Q.58. Art.6.

unintentionally unjust through ignorance, other than ignorance of the law or other outward or inward circumstances, is only indirectly unjust and is not in itself an injustice.⁽¹⁾ Aquinas even conceded that "it may happen... that a man who does an unjust thing is not unjust".⁽²⁾ The action is here materially and indirectly unjust but not essentially so. The other virtues do not admit of distinction between the intentional and the unintentional.

He further referred to the distinction between intentional and unintentional ill when he ruled that when a wrong action is intentional the injury is aggravated, and is considered a greater thing, requiring a greater punishment, by reason of a difference not on our part but on the part of the thing. Here the intention is regarded as qualifying the justice or injustice of the act, although it appears to be implied that even an unintentional injury deserves some punishment.⁽³⁾ But elsewhere the quality of the internal intention was acknowledged as of great importance in determining the degree of punishment, and involuntary injustice is, in fact, said to deserve forgiveness. Thus when a judge becomes aware that a wrong has been committed in ignorance

(1) S.T.11.11.Q.59. Art 2

(2) S.T.11.11. Q.59. Art.2.

(3) S.T.11.11. Q.61. Art.4. ad 3.

or with a good intention he should not impose the punishment of retaliation.⁽¹⁾

Intention is thus not only vitally important to but actually determines the nature and name of the justice or injustice of an act. This seems to rule out the possibility of coincidence between objective justice and subjective injustice and the reverse, although it would certainly seem that a subjectively unjust act may appear just. Aquinas also allowed that the terms 'just' and 'justice' are often used to cover real injustice.⁽²⁾

Certainly, even if it is mainly concerned with external events, justice in itself is an inward spirit⁽³⁾ and in order to express itself it has to take account of inward aspects too. Aquinas said that externally justice is a negative virtue in that rendering to each his due merely restores a balance and levels an unevenness, rather than contributes anything positive. But a just man benefits himself, so that the more positive value of justice appears to consist in its spirit, its inward, unreasoning motive, and in the effect it has on its possessor.⁽⁴⁾

(1) S.T.11.11. Q.68.Art.4. ad.1.

(2) S.T.11.11.Q.57. Art.1. ad.1.

(3) The virtue of justice, considered purely in itself, is described as an inward disposition which moves one to act in accordance with the decisions of the synderesis. (S.T.11.11.Q.60.Art.1 ad.1.)

(4) S.T.11.11.Q.5. Art.3. ad.1.

Free forgiveness of wrongs would seem to nullify the inequality and injustice suffered, for if a man forfeits his right of revenge of his own free will there is no disproportion. Aquinas distinguished between that which is done externally considered in itself (the concern of objective justice) and the formal or essential element (subjective justice) as it exists in both agent and patient. The material (objective) justice is therefore as much affected or altered by the attitude of the sufferer as by the intention of the actor.⁽¹⁾ This, of course, adds yet another dimension to the context in which Aquinas dealt with this question.

It is clear, therefore, that justice is a general virtue which to some extent permeates all relationships, and that it is not separable from the other virtues and is not the exclusive concern of politics.

Aquinas did, however, make a distinction between particular justice, which regulates relationships between individuals, and legal justice, which regulates those between individuals and the community.⁽²⁾ He stressed that the particular good of an individual differs essentially from the common good of the realm,

(1) S.T.11.11.Q.59. Art.3.

(2) S.T.11.11.Q.58. Art.7. ad.2 and 3.

and natural right or justice, he held, differs from the right or justice of nations. The former he described as common to all animals whereas the latter is appropriate only to mankind.⁽¹⁾ This, in fact, is the same distinction as between natural law and ius gentium,⁽²⁾ and shews that he clearly identified natural law and justice. International justice he thought so essentially the work of reason that no institutions were necessary to establish it.⁽³⁾

The common good is the end of each individual member of a community, and since legal justice seeks to achieve the common good, it is more concerned with ordering the internal passions of the individual, particularly in relation to their external operations, than is particular justice, which is directed to the good of another individual.⁽⁴⁾

In contrasting legal justice with the other virtues Aquinas approved it not only because it benefits others, but because of its wider range. Even particular justice, however, surpasses the other virtues because it benefits more than the self.

(1) S.T.11.11.Q.57.Art.3.

(2) See above pp.

(3) S.T.11.11.Q.57. Art.3. ad.3

(4) S.T.11.11.Q.58. Art.9.ad.3.

Previously, however, Aquinas noted that justice is a negative virtue since it benefits only the self positively.

As all types of justice are more directly rooted in the reason than the other virtues they share its eminence. Another reason why justice appears a collective virtue is that judgement is preliminary to any act of justice and although judgement is the work of prudence and justice, the working relationship between them remains vague. Aquinas defined prudence as a virtue and justice as a disposition; prudence is a different thing from wisdom, and spiritual justice and judgement apparently differ from human.⁽¹⁾ They are not in themselves, however, regarded as authoritative enough, for since their object concerns other people, another person's judgement must be called in. Where the other virtues are concerned 'there is no need for judgement other than that of a virtuous man'.⁽²⁾ This presumably means that where one's action affects another person or persons a collective judgement is essential, and individual judgement is unreliable. This tells very heavily against the usefulness of natural law as moral guidance, especially as the fulness of judgement is not permitted or possible for all men. Only the sovereign has the power and

(1) S.T.11.11.Q.60 Art.1. ad.2.

(2) Ibid., ad.3.

right to decide, presumably in all spheres, what is just. Subjects have at most the responsibility of administering a justice which they are incompetent to calculate, and which they may not understand.⁽¹⁾

The three conditions which determine the justice of any judgement are parallel to those which regulate the conditions of a just war. The judgement, to be lawful, must "proceed from the inclination of justice" and from the proper authority and be in accordance with reason. Here again the internal spirit of justice seems to be as important as the justice of the external act, however objectively just. Absence of inward inclination to justice renders an otherwise just act or judgement unjust, and when a just spirit acts in ignorance any consequent act of injustice is deemed not really unjust. For a judgement to be just, reason must have certainty, and when a judgement is formed on insufficient grounds it is called judgement by suspicion or rash judgement.⁽²⁾

Christ's words 'Judge not that ye be not judged' Aquinas interpreted as applying to 'inward intention or other uncertain things'. This would seem to make it impossible to assess with

(1) S.T.11.11.Q.60. Art.1 ad.4.

(2) S.T.11.11.Q.60. Art.2.

with certainty whether or not it is possible to fulfil the first condition of a just judgement.⁽¹⁾ Since those guilty of grievous sins should not judge 'those who are guilty of the same or lesser sins,' any human judgement would appear to be impossible.

Aquinas acknowledged that judgement of things is less important than judgement of people; such judgements differ in quality, for the former involves no moral values apart from those in the judging person. The extent to which an external act considered in itself is a thing is a thing undefined, but it certainly cannot be called a person. In judging things a false judgement seems to be always an evil, but in judging people Aquinas recommended that the most favourable construction should be put upon the facts.⁽²⁾

He made another distinction between commutative justice, which governs dealings between two individuals, and distributive justice, which governs dealings between 'the whole' - presumably any limited community as well as mankind - and the individual. Legal justice governs the actions of individuals in relation to the common good, and particular justice is defined this time as

(1) S.T.11.11.Q.60. Art.2. ad.1.

(2) S.T.11.11.Q.60. Art.4.

being concerned with the distribution of the common good among particular individuals.⁽¹⁾ In this sense justice takes into consideration existing differences among men, the distribution being apportioned presumably according to deserts rather than to need. Hence it seems that once more an external action cannot be separated from the persons it touches.⁽²⁾ Distributive and commutative justice differ according to the nature of the relationship to which they apply as well as to the actual numbers of people involved. Thus, the kind of right an individual has in common property is unlike the right he has in private property.⁽³⁾ Both distributive and commutative justice aim at equality, but the former follows geometrical proportion, the latter arithmetical. In actions and passions a person's station affects the quantity of a wrong, for it is a greater injury to strike a prince than a private person. Hence, in distributive justice a person's station is considered in so far as it causes a diversity of things.⁽⁴⁾ In

(1) Father Gilby remarks that what we now call social justice is nowhere specially treated by Aquinas, but is 'fitted in somewhat uneasily, with the service the individual owes his group, and the fair treatment he should receive from its rulers' (Between Community and Society, p.8.)

(2) S.T.11.11. Q.61 Art.1. ad.5; Art.2. ad.1 and 2. Father Gilby thinks it significant that they are treated as persons, each with his expectations and rights, and not as a mass. (Between Community and Society, p.210.)

(3) S.T.11.11.Q.61. Art.1. ad.5.

(4) S.T.11.11.Q.61. Art.2. ad.1, 2 and 3.

distributive justice the emphasis is on persons, and personal differences are taken into account. In commutative justice the emphasis is on things. A distinction was made between a 'rational' and a 'real' mean. The other moral virtues follow the rational mean whereas justice, depending on the diversity of things, follows the real mean.

Aquinas at one point recognised that individual good and the good of the community do not always coincide,⁽¹⁾ and his rulings on the state's right to take life prove how impossible it is to be certain at what point the one ought to be sacrificed for the other.

The deed of killing he considered fully, and decided that it is praiseworthy and advantageous to the commonwealth to kill anyone dangerous and infectious to the community because of some sin on the ground that "a little leaven corrupteth the whole lump."⁽²⁾ He did not, however, consider the implications of applying such a principle wholeheartedly, nor did he define the sins and the degrees of wickedness which merit such correction. Likewise he ignored the possibility that the sinner might be a potential saint who at some later time might benefit mankind.

(1) See p. 329.

(2) S.T.11.11.Q.64, Art.2. He quoted 1 Corinthians. V.6.

Aquinas's interpretation of the parable of the wheat and the tares⁽¹⁾ was that the wicked should be preserved only for the sake of the good. If their destruction could be achieved without danger to the good, it would be desirable. He mentioned no possibility of finding in one person the wickedness and goodness referred to. Nor did it occur to him here that the wicked might be preserved for their own sake in hope of their eventual conversion and redemption. He thought that God sometimes slays sinners in order to protect the good, but that sometimes, with Divine discrimination, He allows them time to repent, even at the apparent risk of harm to the good. Human justice, by killing off the really dangerous, and allowing only the less dangerous to have time for repentance he considered as imitating God, but as God, with Divine discrimination, may allow time for repentance even to the really dangerous, this cannot be wholly true. It is in itself 'an evil to kill a man',⁽²⁾ said Aquinas, 'so long as he preserve his dignity', but since 'a bad man is worse and more harmful than a beast',⁽³⁾ it may be a duty or even a virtue to kill him. Once again he did not define the degree or kind of sin which deserves

(1) S.T.11.11.Q.64. Art.2 ad.1.Matthew XIII. 24 - 30.

(2) "If we consider a man in himself, it is unlawful to kill any man, since in every man though he be sinful, we ought to love the nature which God has made, and which is destroyed by slaying him."(S.T.11.11.Q.64. Art.6.)

(3) S.T.11.11.Q.64. Art.2. ad.3.

such punishment, but he did say that it is the privilege of the ruling authority of a community to administer it, because the common good is the responsibility only of persons of rank having public authority. When clerics accept secular office, however, they acquire only power to authorise, but not power to inflict, capital punishment themselves, because they are 'entrusted with the ministry of the New Law, wherein no punishment of death or of bodily maiming is appointed.'⁽¹⁾ The priests and Levites of the Old Testament, being ministers of the old law, which enjoined the punishment of death, might appropriately slay with their own hands, and in so doing they were imitating God, who, as His discretion, can Himself slay evil-doers. Aquinas did not remark here on the dissimilarity on this point between the New Law and the Old, between the ministers of the New Testament and the ministers of the Old, between the Christ who would never retaliate and the God who could annihilate, nor did he comment on the fact that ministers of the New Law can authorize members of the laity to perform deeds which would be sinful if performed by the ministers themselves.⁽²⁾ The good of the community which justifies, inasmuch as it is the result of, such killing, seems, therefore,

(1) S.T.11.11.Q.64. Art.4.

(2) He did so elsewhere of course. See pp. 157-9 above.

to be a merely material good, since it is unfavourably compared with that apparently separate and higher spiritual welfare to which clerics are so peculiarly devoted, and which precludes preoccupation with material concerns.

Following Aristotle, Aquinas thought that suicide is always wrong on the grounds that the death of a man always injures rather than benefits the community of which he is a part, which is a point he did not consider explicitly when discussing whether a bad man should be killed. Suicide is more intrinsically and unconditionally wrong than the killing of another man, which, as has been shewn, may be justified in certain conditions, because it is contrary to the natural inclination of everything to remain in being, and also to charity, whereby every man should love himself. He did not reckon with the possibility that the suicide of a bad man, such as a tyrant, might benefit a community. Here the natural inclination to love oneself and to stay alive is presumably deemed to override the law that the good of the whole comes before the good of an individual, which law alone justifies the killing of a bad man. Since Aquinas stipulated that it belongs to God alone to pronounce sentence of life or death,

he presumably implied in all his arguments for the rightful destruction of the wicked that the persons who authorize and carry out such destruction are acting as agents of God Himself. Death he regarded as the ultimate and most fearful evil in this life, and suicide as particularly evil because it allows no time for repentance and is not sanctioned by public authority.⁽¹⁾

The killing of the innocent is at the heart of any weighing of the ethics of war. Aquinas said that the killing of a person can be considered in two ways. Firstly from the point of view of the person concerned, and secondly from the point of view of the person's relation to the community. The killing of even a sinner is not justified from the first point of view. Only if death would benefit the community is killing justified. That means in fact that any killing, in war or otherwise, is only half just, though Aquinas prefers to use the term 'irregular' to describe it. Both a judge who rightly condemns a man to death and a cleric who unintentionally kills a man in self-defence are, however 'sinless', irregular.⁽²⁾ The killing of the innocent is in no way lawful.⁽³⁾

The harmony between individual good and the good of society is thus by no means satisfactory or inevitable, but is often unlikely or impossible. In his reasoning on justice Aquinas seemed

(2) 'Irregular' means unfitting or unseemly, not in any way sinful

(1) S.T.11.11.Q.64. Art.5.

(3) S.T.11.11.Q.64. Art.6.

rather too easily to take it for granted that the individual should be sacrificed for the whole. In spite of his nominal differentiations between legal, particular, commutative and distributive justice, in fact, the relationships between the individual and the group or groups of which he is part, are by no means easily amenable to exact justice.

Indeed, when Aquinas discussed equity⁽¹⁾ he shewed that although 'merely just' justice is often adequate in practical concerns, it is less than the fulness of justice; human justice must be seen as relative to the absolute justice of God, and equity is the intensest expression of man's closest approximation to such justice.

"Equity... included the virtue of the free and fair man described by Aristotle, but went beyond the legal recompense of narrow, keen and little minds, the quid pro quo of particular justice, beyond the political virtue, of the Ethics and Politics, beyond friendliness, beyond the 'justice' of Plato, even beyond the righteousness of the Old Testament, to a generosity and friendship surpassing civic reasonableness. It marked the place where political life soars into the full life of friendship. For justice in order to be just must become lissom so that it may seek nothing less than the ultimate justice of God, only to find that it has found mercy." (2)

Aquinas's inheritance from the past is clear. In Plato

(1) S.T.11.11.Q.CXX.

(2) Between Community and Society, p.302.

and Aristotle is found the conception of justice as a general, universal virtue,⁽¹⁾ the art of bringing proportion and harmony to the individual and to all life, which the Fathers made one with the love of God and man. In Aristotle there is too an understanding of justice as a more limited, particularly social virtue, working in relationships between persons.⁽²⁾ It is to Aristotle that Aquinas is indebted for the idea that whether particular or general, justice is altruistic,⁽³⁾ and for the distinction which may exist between apparent, or legal, and real justice and injustice.⁽⁴⁾

It has been pointed out with some truth that Aristotle's various divisions of justice are indistinct, and not entirely integrated,⁽⁵⁾ but he certainly applied justice particularly to relations between persons, and made the distinction between proportional or distributive justice which is relative to the inequalities existing among persons, and commutative justice, either corrective or judicial, which balances the inequalities of things and acts when persons can be regarded as equal.

Aristotle has been criticised for considering penal justice as private rather than public,⁽⁶⁾ and thus limiting penal injustice

(1) Aristotle: The Nichomachean Ethics. Book V.I.1129b.

(2) Ibid., Book V.I. & II. 1130a.

(3) Ibid., Book I.1130a.

(4) Ibid., Book V.IX.1136b.

(5) Giorgio del Vecchio. Justice. pp. 53 - 4.

(6) Ibid., p.52.

to the violations of individuals rather than of the state and its legal system. He has also been criticised for not sufficiently distinguishing between reparation and punishment, and for thus considering penal justice as an aspect of commutative or synallagmatic rather than distributive justice.⁽¹⁾ Another criticism is that for him the justice which works in contractual relations has an objective rather than a subjective basis, whereas in contracts subjective personal aspects should be pre-eminent.⁽²⁾

These criticisms would imply that Aristotle too often thought of justice in individual but yet impersonal terms.

In Aquinas also is this confusion between the general and the particular, the subjective and the objective aspects of justice, a confusion worse confounded by the introduction of religious considerations.

For although Aquinas gave justice separate consideration, his analysis of it turns it into a somewhat formless quality which is inseparably part of all the individual and social virtues which can be directed towards others. It is identifiable

(1) Giorgio del Vecchio. Justice. p.52.- 5

(2) Ibid., p.53.

with reason, and thus with natural law and with all human moral goodness. His definition of it as concerned only with external actions is contradicted by his conception of metaphorical justice which is purely internal and responsible for motives, and by the fact that all justice has to take subjective and personal considerations into account and allow them to affect its judgement. Even the attitude of the person who is affected by an action is allowed to determine its degree of goodness or badness. Justice is itself an inward spirit and the inward intention of justice or injustice actually determines the justice or injustice of an act. Indeed, it is the only virtue which is so determined by its motive, as the other virtues cannot be distinguished as intentional or unintentional. And so it is only this importance of inward intention which enables justice to be distinguished as a separate virtue since the act of doing good to others is part of the other virtues. Justice alone is motivated by concern for others, while other virtues are motivated by concern for the self. In its external concerns justice is merely a negative virtue, for only the inward spirit of justice benefits its possessor. Thus, that which distinguishes it from the other virtues identifies it with them, since these other virtues are regarded as benefitting only the self.

Aquinas agreed that a just intention is not easy to ascertain. He regarded it as an 'uncertain thing'. Yet for a judgement to be just reason he said, must have certainty. Since it has to include both right intention and rationality, justice is a very difficult virtue to attain. Justice is indeed distinguished from the other virtues as following the real rather than the rational mean; yet justice is rationality.

Not all of Aquinas's reasoning about justice is strictly fair and rational. He does not consider the possibility of permitting a suicide which would benefit the community, but regards it as always wrong in that it allows no time for repentance and is not sanctioned by public authority. Killing a bad man is permitted if it benefits the community, as is killing in self-defence, even though this too might allow no time for repentance, need not be sanctioned by public authority, and might benefit only one other individual.

Summary of Aquinas's Teaching on Justice.

Justice is by no means a virtue peculiar to politics. It is rooted in the individual synderesis and will. Metaphorical justice is wholly individual and internal, particular justice operates between individuals only, or at least has individuals as its object. Legal justice starts from individuals. The

scope of justice is not necessarily wider than that of other virtues for they all have an element of altruistic justice in them. And charity transcends justice and so is likely to have an equal or greater effect on others. Indeed, it is only if altruism be 'extracted' from the other virtues and called justice that it is possible to exalt justice on the basis of its extra community-value. The identification of legal and general justice is misleading if it suggests that political justice is comprehensive. Political measures do indeed have a wide reference, but quite outside the field of politics one man may have a vastly beneficial or devastating effect upon others. General justice is certainly too inclusive a virtue to be realised by political action. And if it is so exclusively altruistic, as Aquinas suggests, it is also too high an aim.

Charity, Aquinas held, transcends but includes justice, justice being concerned with human good, charity with divine.⁽¹⁾ Divine justice, however, by no means always harmonises with human.

It is allowed to transcend human reason, to reveal the radical injustice and relativity of all human justice, and to introduce another dimension and other values. Every sin can be accounted an injustice before God, and since no man can be so just, and those guilty of grievous sins should not judge those guilty of the same or lesser sins, all human judgement would appear to be

(1) S.T.11.11.Q.58. Art.6.

rather precarious.

Aquinas gave no clear indication of where the dividing line between public and private judgement should be. Many private decisions can affect more than one individual without apparently requiring the judgement of others.

It is plain from his doctrine of the just war that Aquinas thought that justice rather than love is the virtue which warfare can achieve. Political measures can indeed achieve a measure of justice but at best such justice is likely to be partial, imperfect, approximate, and limited to material concerns. The dilemma of justice is centred at the meeting point between individual and community or communities. In war these relationships are most primitive and chaotic.

The superiority of public over individual administration of justice, Aquinas thought lay not only in its wider reference, but in that it is more dispassionate, calm, rational, deliberate and more discriminate. But in warfare it is precisely these elements which are missing. The judgement and the authority of the monarch often mean little more than the sanctioning of individual responsibility for the actual practical carrying out of the fighting. War is largely indiscriminate and irrational, a collective activity blind to the individual and based on the

primitive conceptions of corporate personality and blood feud. It is an activity where there is every incentive to tempt the expression of savage passions, where physical force is allowed to be the ultimate power and victor, where the refinements demanded by justice are impossible, and where justice miscarries so much that the death of the innocent has to be accepted as an incidental effect. The brutality inevitable in warfare makes it at best a clumsy instrument of justice. Even if he had realised how difficult it is to face war or a situation likely to lead to war with justice, Aquinas seemed to consider that charity has no further help to offer to a political solution, even though he accepted its transcendence over justice and even though far more than material issues are involved in any war. Charity was not, however, a virtue to be applied by politics.

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Modern thought on justice and its relationship to law and Christianity shews more awareness of the elusive nature of the

question, but no greater clarity in dealing with it. The great difficulty of defining justice in practical terms stands out even when it is regarded as an absolute value, for it is held to result in conditional rather than apodeictic laws. For example, it cannot fix a penalty for shoplifting: it can only rule that this should be less than the penalty for housebreaking. And it cannot say whether theft or bodily injury is the greater crime, but only that they should be punished differently.⁽¹⁾

It is indeed hard to respect the absoluteness of law and at the same time to be sensitive to particular circumstances and persons. Nevertheless, justice is ultimately a relationship between persons, though often expressed indirectly, however, through things, institutions and other persons, and it must reckon, therefore, with all the personal and other factors involved in any situation, and so become wholly conditional. Theft through housebreaking may be thought of as two crimes, and in this sense needs two punishments, but any particular act of housebreaking may call for lighter punishment than any particular act of shoplifting. That housebreaking should be considered always more serious than other thefts, while bodily injury is not

(1) H.H.Walz in The Biblical Doctrine of Justice and Law, pp.15.17.

necessarily so, suggests that property weighs more heavily in the scales of legal justice than human beings, and that justice which so pronounces it has gone only half way to being conditional.

Scepticism about the practical possibilities of justice is implied in the rejection of such generalities as 'honeste vivere, neminem laedere, suum cuique tribuere' as naive and useless in deciding in fact what justice is, and in the assertion that the most explicit requirement of justice is that all people who are under a legal system must be treated both equally and individually, and must know what the law is and have faith in its power to enforce its prescribed penalties.⁽¹⁾ Since there has been no great improvement on Aristotle's distinction between arithmetical and proportional justice,⁽²⁾ and no reconciliation of them, and since they are so apt to contradict each other, such generalities are of little practical help. The difficulty of treating everyone both individually and equally is plain,⁽³⁾ and knowledge of the law is no guarantee of justice unless one is allowed to at least criticise it, even if not to share in its creation. And if one knows that the law

(1) The Biblical Doctrine of Justice and Law, p.16.

(2) Emil Brunner: Justice and the Social Order, p.31.

(3) One cannot really escape the dilemma by postulating that equals be treated equally and unequals unequally, for there is in every individual that which is 'equal' and that which is 'unequal'.

is unjust there is little security in the knowledge, or in finding out that it can be powerfully enforced. Moreover, justice and law often go ill together, not only because it is so difficult to know and administer justice, but also because justice is not a full basis for law. Political and social feeling, custom and general morality and the interest of governing groups, according to most thinkers, have to be taken into the reckoning. Justice itself, however, either can or cannot have something to say about such things. If it cannot, the relationship between it and them is likely to be inharmonious; if it can, it can call them just or unjust and so, in a sense, transcend them.

Even legal security is only indirectly connected with justice, for it must be grounded on political power. And that power which supports the authority of law can conflict with the justice which recommends different treatment for different cases, and since part of legal security is the assurance that law will be enforced, it is hard to bring law and justice together. In the modern world the problem has grown harder because there are no generally accepted bounds to the reach of law. This has arisen from man's bewilderment about himself, and his uncertainty about the goal of life. But although this confusion may sometimes be held to harm justice more

than legal expediency, self-questioning is at least a first step towards self-understanding. Nevertheless, such bewilderment lies behind the modern disbelief in eternity in which Professor Quick discovers 'the real cause of a new, radical totalitarianism.'⁽¹⁾ It is difficult, he thinks, to appreciate man fully as an individual who is an end in himself unless he is seen as directly related to the eternal. In the light of such possibilities, it is clear that justice and law fall within the fields of theology and metaphysics.

On the face of things the development towards democracy should have increased rather than decreased justice insofar as subjects became lawmakers, and this seems to have happened at the beginning of the development of modern states. But it means that laws are now made by a majority, rather than that they express the will of the community. Even in the middle ages this common will was hardly the genuine will of the community, but rather the inevitable acceptance by the unthinking masses of an order willed by a few. Modern decentralisation and party politics have also disturbed the security of law and it can now be changed too easily or used as a party weapon. Such flexibility, however, may help the cause of justice.

(1) O.C.Quick: Christianity and Justice, p.7.

The relative values of expediency and justice have been rated diversely. Expediency is sometimes extolled as the handmaid of justice,⁽¹⁾ but at others law is allowed to plead necessity or expediency rather than justice or moral principle in its decrees,⁽²⁾ since expediency rather than justice determines the relative evaluations of things, and the penalties to be imposed. If justice is the conditional art or virtue it is often thought to be, this should be its particular task. Pure justice is now reckoned no more than a rallying cry for enthusiasts and romantics, including Christians, who may use it to manipulate law for their own selfish ends.⁽³⁾ No-one can discover it. The equality demanded by liberalism is likewise unrealistic, since men are basically unequal.

The same modern bewilderment confuses the understanding of the relationship between expediency and justice. Doctor Walz defines expediency as that which refers to the highest good individual, political or cultural of people who agree to live a common life. He then condemns it because each of these goods, taken by itself, is inadequate, whereas justice consists of a

(1) The Biblical Doctrine of Justice and Law, p.24.

(2) Ibid., p.18.

(3) Ibid., pp.27-8

mixture of the three elements.⁽¹⁾ He seems here to confuse expediency with the 'wrong type of highest good'. By saying that 'expediency by itself as the sole factor in matters of law tends to be self-stultifying' he also assumes that expediency can be an end in itself. The real question here is clearly about which of his alternative goods man ought to follow, not about whether man ought to follow, 27
 expediency as one of the goods. The assumption is parallel to that of assuming that reason can be an end in itself.

The distinction between the three different ways of looking at law, as finding the basis of law in its origin, in its goal, or in its achievement, is also parallel to the consideration of justice as an ideal which law strives to fulfil, as existing in law, or as the result of law. Natural law, which in Catholic legal theory is Thomist law, is an example of the first aspect. Elsewhere, natural law is so interpreted that its origin is found not in God, nature or reason, but in things as vague as institutions or 'norms for behaviour which may be derived from what is given in experience'.⁽²⁾ It is reckoned that any institution has rules which spring from and are consistent with

(1) The Biblical Doctrine of Justice and Law, pp.24-5

(2) Ibid., p.30

the idea of the institution. State law, for example, is an expression of the institution of the state. Sociology would define justice as the 'maximum satisfaction of human wants and expectations' and anthropology might suggest that a law of culture is more appropriate to man than a law of nature. This again raises questions as to whether man is fundamentally law-abiding or freely creative.

Professor Brunner stresses the importance of clarifying the diverse interpretations of natural law,⁽¹⁾ but he thinks that the objective collective law of nature of the pre-Christian world based on the conception of the logos which pervades the cosmos, the subjective individual and rational law of nature of modern times and the Christian natural law, all arise from a transcendent but real principle of justice, even though they, unlike it, lay down firm and explicit rules and rights. And he thinks that the summum cuique is justice and the natural law. But there is a further modern variant of natural law, which

'... claims Grotius as its father and was developed on the one hand by the more or less rationalistic school of Pufendorf, Thomasius, etc., and on the other by the English and French philosophers of the Age of Reason.' (2)

(1) Justice and the Social Order, p.80.

(2) Ibid., p.81. Though he explains how the Scriptural conception of the orders of creation came close enough to what the Roman jurists and Greek philosophers meant by the law of nature to make the latter - no doubt because of its rationality - acceptable.

This, however, he also classes with the others as anti-naturalistic and moral,⁽¹⁾ and distinct from what is generally meant by the natural law today, that is, an irrational and naturalistic impulse which takes the laws of nature as starting point and guiding principle.

Professor Brunner does not, apparently, consider that a synthesis between this and other interpretations ought to be possible in that these natural laws are, after all, part of

(1) This is largely supported by Carl Becker in The Heavenly City of the Eighteenth-Century Philosophers. His thesis is that although the philosophers cast away Christian revelation they kept Christian philosophy, their new revelation being the laws of God written in the great book of nature, '... having denatured God, they deified nature.' With an ominous and increasing awareness of evil in nature and of reason's inability to find God or morality, however, came a compensating concentration on humanity and virtue, and a need to make religion, morality and politics fit the nature of man. The search for 'constant and universal principles of human nature' was conducted by experience rather than by abstract reason, such research proving that these principles are, after all, relative, but that experience can separate those customs which are suited from those which are unsuited to human nature. Christianity, Becker thinks, with its Garden of Eden in the past, its realism about man's present situation and suffering, and its hope of his eventual salvation and security, perfectly reflects the experience and hopes of average men. But it was given up, and replaced by the religion of humanity, which substituted love of humanity for that of God, man's own perfectibility for divine salvation, and continuance of life and posterity for immortality in heaven. Posterity was personified, almost deified, and liberty and equality became sacred principles.

the divine creative ordinance of God.⁽¹⁾ He thinks that this modern perversion of natural law into something basically instinctual is so pervasive that it has virtually devalued the real meaning of the term. He would, therefore, put it out of service. Christian justice Professor Brunner would ground on the Christian understanding of the orders of creation. Human rights are given by God at birth.

The Reformers, although they allowed for the effects of sin more than did the Catholics, did not believe sin had destroyed these orders of creation, and they too accepted the Aristotelian teaching on the state just as easily as the rationalist understanding of science and physics. On the other hand, they emphasised the corruption by sin of natural knowledge more than Catholics, and based their understanding of justice more on revelation. Professor Brunner thinks that jurists have rejected the natural law because of its individualism, and because any such transcendent standard is likely to menace the positivist law over which it stands. This was particularly so where the natural law developed into a complete system of law, and has become increasingly common since the time of Grotius. Here the Reformers diverged most clearly from Catholics,

supporting positivist law, and allowing natural law as a criterion only. The right to resist tyranny, a right based on natural law, was, however, firmly supported by the Reformers. But this right became obsolete when the modern constitutional state protected its citizens against the need for such resistance. This grounding of a natural law principle in positive law was indeed the germ of the modern constitutional state, but the rise of totalitarian states has necessitated the revival of the natural law principle of resistance:

"Hence wherever peoples are suffering under the rigours of dictatorship, it is on the law of nature, and the idea of the rights of man that they have set their hopes. The law of nature, the eternal unwritten laws of the Creator, are nerving their will and convincing them of the divine righteousness of their resistance against a tyranny which is devoid of any foundation in law, and can in no way claim the obedience due to the 'powers' because those powers do not show what is, in the words of the Apostle, the raison d'être of all powers - they do not attend upon lawful order as, after all, the Roman State did. On the contrary, by their lawlessness they destroy all law, and by their very existence outrage all sense of law. Hence the totalitarian State, which arose on the ruins of the law of nature, has been the means of bringing it to life again." (1)

Another type of legal theory holds that law should provide for each individual all the freedom needed for free moral growth,

(1) Justice and the Social Order, pp.88-9

because it is reckoned that the moral law is individual and not social, not prescribing morality. Yet another founds law in the will, though this could be a natural law theory in that it is natural for the strong to impose their will on the weak.

Recent Christian thinking ⁽¹⁾ only proves that the right relationship between Christianity and human justice is in many ways vague, and that it complicates rather than clarifies that between justice and law. The difficulty of reconciling human justice and Christianity is the difficulty of reconciling the God of Creation and the Old Testament with Christ the Redeemer. Although it is now acknowledged that the basis of human justice must be the triune God, and although the solution of the problem in terms of natural law and the orders of creation is increasingly recognised as inadequate and partial, the contradiction between these and Christ is one which the most subtle and extravagant theories cannot really eradicate.

Redemption is allowed to have both reasserted God's absolute claim upon man and yet, at the same time, to have shewn that

(1) A reasoned survey of Christian discussions on the matter is given in A Biblical Doctrine of Justice and Law, by Heinz-Horst Schrey, Hans Hermann Walz and W.A. Whitehouse.

man's rights are not destroyed by sin but reinforced by Christ. The justification which is prepared for man by God's righteousness is acknowledged as both basic for any understanding of human law and justice, and yet separate from it. Old Testament law on the whole is rejected as too closed in its ancient context to be of any practical help, and the main guidance found in the old and new testaments is their oneness of spirit and the people's experience of the union of the sacred and the secular. The only safe criterion is the living Christ who can speak with a fresh message to every generation.

God's righteousness is alternatively associated with law and separated from His loving kindness and mercy, or identified with the latter. The saving righteousness of God is held to include a judgement or condemnation of man's unrighteousness in terms of laws, statutes and commandments.⁽¹⁾ Justice should be done by means of restitution, and although retaliation is to be allowed, it must be limited. The impersonal character of such legal retaliation is acknowledged, and it is believed that it makes a positive contribution to the health of the community and that making vengeance legal and religious underlines it as the prerogative of God. At the same time it is held that Jesus

(1) Ibid., p.57.

reveals that the righteousness given by God is not proportionate to man's obedience to the law, but comes by an act of sacrifice wholly different from that of Jewish legalism.⁽¹⁾

The attempt to reconcile such an act with human justice leads to some doubtful reasoning. Jesus is held to have ~~so~~ utterly identified himself with the people and their sin that He willingly submitted to a death by means of human justice. God had appointed such a death, and Jesus thus represents the righteousness of the community, gathers up the gross self-assertion of those who had condemned him and, by submitting to its judgement, makes it acceptable before God. In this way man's self-assertion was taken into the service of God's righteousness, and thereafter man could live before God with a righteousness which is the expression of love for God and for his fellow-man. Yet this righteousness is not achieved by obedience to law, and even less by obedience to a bad law or a tyrant, but by participation in Christ by the Holy Spirit, and by taking the sins of others upon oneself and returning good for evil. And such imitation of Christ should underlie human law and justice.⁽²⁾

By remaining a Jew, even at the price of death, Jesus is reckoned to have upheld the society of God's people at the expense

(1) Ibid., p.93

(2) Ibid., pp.94-102. Professor Schrey seems to lean heavily on the Treysa Report in this section.

of the nation, and thereby to have shewn that God repudiated any particular national or cultural setting for the life of His people.⁽¹⁾ Since the apartness of this new community is marked by what it suffered at the hands of the Gentiles, however, it is surprising that the new righteousness includes a respect for these as ministers of God.

Professor Barth believes that in Christ the angelic powers were called to order, and that the role played by Pilate shewed that, even when misused, the statesman's power is brought into the service of God. Thus, when Pilate in the garb of justice and the exercise of his God-given power, allowed injustice to occur, he was

'the human instrument of that justification of sinful man, which was completed once for all time through that very crucifixion.' (2)

For the church Jesus is man as God intended him to be, and law-abidingness plays an important part in the achievement of that manhood. He was born at Bethlehem because an imperial edict required his parents to be there, He died the victim of a legal murder. However, it is only possible to say this because He did not transgress the law of the land. The attitude was

(1) Ibid., pp.103-4.

(2) Karl Barth: Church and State, p.16 quoted by Professor Schrey. pp.106-7.

finally expressed in Christ's acquiescence in Pilate's unjust sentence, from which Professor Schrey draws the lesson that

'The self-expression of faith within this world will therefore include a practical respect for the law, carried to the point of accepting the common version of just dealing, and enduring its perversions where they occur.' (1)

Thinkers of Professor Barth's school believe that the trial of Jesus shews up more clearly than any other incident the difficulty of linking power with law. Christians, they say, accept law because in the crucial encounter between Jesus and the law, the last word was with God:

'Law... has been brought to the point of participating in the crucial encounter of God with His creation, and in that encounter the ends for which it strives have been secured. Henceforth, Christians know that the law, wherever and however it bears on human life, does so in subordination to the authority of Jesus Christ, at once expressed and concealed in his submission to that unjust verdict after a life of legal rectitude.' (2)

"He it is who has borne the sins of the people and thus satisfied the demands of justice while at the same time manifesting the grace of God. He it is who uncovered the radical injustice of human justice— notably in the trial before Pilate— but at the same time he authenticated that justice by submitting to it." (3)

(1) The Biblical Doctrine of Justice and Law, pp.122-3

(2) Ibid., pp.123-4.

(3) Ellul: Le Fondement théologique du Droit, p.29 quoted by Professor Schrey, p.174.

Rather inconsistently, however, Professor Schrey does not hold up Jesus' uncritical acceptance of Pilate's unjust verdict for imitation. Instead Christians are urged to press for alteration of the law, even though Jesus Himself did no such thing. This is called an 'outworking, through the Holy Spirit, of the crisis where Jesus Christ subjected Himself to the law,'⁽¹⁾ but it hardly agrees with the recommendation that Christians should follow Jesus' example of acquiescence in Pilate's unjust sentence. It is also stressed that imitation of Christ, including His humility, gentleness, His rejection of power and violence, and particularly His giving up the Old Testament right of retaliation should permeate the secular world,⁽²⁾ while at the same time they believe that the Sermon on the Mount contains hyperbolic metaphor.⁽³⁾ Christians should oppose injustice because not to do so would leave the field to evil and chaos,⁽⁴⁾ and must respect the civil authorities since it is only under their protection that the community 'can pursue a tranquil and quiet life in all godliness and gravity' and yet they are to form a society without the common political features of hierarchy, opportunism, and personal security, and have to be willing to sacrifice rights and suffer unjustly to the point of

(1) 'He will follow Jesus in His denunciation of mistaken notions of just dealing.' (The Biblical Doctrine of Justice and Law, pp.124-5.)

(2) Ibid., p.109.

(3) Ibid., p.129.

(4) Ibid., p.113.

martyrdom.⁽¹⁾ Because God forgave, Christian society must forgive, but the impenitent are to be excommunicated.⁽²⁾ The Church, indeed, must use worldly laws to win safety for its own peaceful existence.

Other aspects of Jesus' life and teaching which are allowed to affect human justice include the image of a judge applied to both God and Christ, which they see as proof that the early church realised the importance of judgement and law. But they would apply the words 'Judge not, that ye be not judged' to individual relationships only, although they would allow that it should influence Christian attitudes to public judgement. Such a text is really a warning of human moral imperfection, and should lead judges to think of themselves as one with the accused, both in his sin and in God's forgiveness of that sin. Law itself should shew the fruits of such consideration, but how remains vague. Human justice, they say, is at best an interim measure, for the times before His second coming as Judge.

The contradictions of these positions are so flagrant that it might be shewn, by following similar lines of thought, that the incarnation itself degrades God rather than elevates man.

(1) Ibid., p.110.

(2) Ibid., p.112.

Christians are to imitate Christ in silently submitting to unjust law, and in denouncing and altering it. To believe that Jesus' non-resistance made the crime of crucifixion acceptable to God, and that Jesus authenticated unjust justice by submitting to it, means that the soldiers who nailed Him to the cross were as virtuous as Christ in their obedience to law and that they were unwittingly imitating Him. The assertion that all human law, no matter how unjust, is always subordinate to Jesus because he submitted to it confuses relative roles and responsibilities and good and evil.

To make the mark of belonging to the new society the giving up of the lex talionis in favour of the Sermon on the Mount, and then to call the latter hyperbolic; to hold that Christians must resist aggression if it is unjust while they must not seek normal security but rather suffer injustice and martyrdom; to say that they must forgive and excommunicate, and that the judge must identify himself with the criminal but not, presumably, share his punishment, are paradoxes which must bewilder all normal processes of thought. They shew that the attempt to reconcile the God of justice and creation with the Redeemer God of Mercy and Love has failed, despite many cle-ver and dogmatic assertions. It is indeed admitted that

that the theological question with which it is important to wrestle is thrown into the form of asking what is the relationship between the belief about creation and the belief about redemption.

In the abstract Christians can relate justice to love by regarding the former as an essential preliminary to or part of the latter. Both respect man as a person who is an end in himself, and love can be regarded as both the ground and goal of justice. Professor Quick maintains that justice must refer to an end outside itself:

"All rights and claims are rights and claims to something, and clearly that something cannot be bare justice itself - otherwise justice would, as it were, operate in vacuo and have no material to work on. --- Clearly, to affirm rights and claims of this kind is to affirm something concerning the fundamental order of the universe." (1)

He would say that man's rights are based on the love of God, so that justice must presuppose love. Consequently human justice must be relative and, therefore, tainted with sin. He thinks that creativity belongs to God's love and not to His

(1) Christianity and Justice, pp. 53-4. This is another affirmation of the truth that reason must have a goal and purpose outside itself. See pp. 252-3 above.

justice, which therefore has no authority over His love. A Christian forgives his fellow-man because he himself is forgiven by God, so that

'... the definition of rights and duties appears to be of no final importance. All men are equal, no longer as subjects of rights and objects of duties, but rather as subjects of sin and objects of grace... Henceforth the Christian owes nothing to any man save love; and love is the one thing that cannot be rendered as a duty; for if I am conscious that I ought to love my neighbour, I thereby acknowledge that I do not. And as for my rights, how can any follower of Jesus concern himself with them? To be saved is to allow love to consign them to oblivion.' (1)

The implications of such an understanding of the relation between justice and love remain very vague, and Professor Quick admits that this 'evangelical' understanding of justice is hard, if not impossible, to reconcile with other understandings of justice. (2) Professor Brunner acknowledges the same distinction between iustitia civilis and iustitia evangelica, which latter he calls the antithesis of worldly justice. And he goes on to say that their respective spheres are as separate as heaven from hell. 'Love gives the same to all - itself. But justice renders to all their due.' (3) Nevertheless he seems to think that

(1) Ibid., p.57.

(2) "In what we have called the evangelical point of view, God has, as it were, allowed Christians by faith to take a glimpse from a position in which they will only be able to stand firmly when they are finally risen with Christ and have passed beyond this world altogether... And to look at it from above is certainly not to be content to leave it as it is. The love which enables men to reach that point of view is the only really creative and revolutionary power in the world." (Ibid., p.60.)

(3) Justice and the Social Order. p.105.

traffic runs smoothly between this heaven and hell, for the same God rules both, the same God both commands citizens to obey the state and also to return good for evil. And he is distressed by no necessary conflict between justice and love for he allows love to reign only in personal relationships assigning justice to their impersonal aspects and to dealings between groups and societies. He agrees with Professor Barth that 'the State, the most impersonal because the most comprehensive of institutions, knows nothing of love,'⁽¹⁾ and thinks that it nevertheless commands the allegiance of the Christian on grounds of its justice.

Such a tidy differentiation between the spheres of justice and love is questionable, as is the hope that justice always precedes love and will never come into conflict with it.

A similar vagueness characterises the relationship between love, justice and power in Professor Tillich's lectures,⁽²⁾ in spite of their tone of certainty and depth. He is confident that only the ontological nature of these realities is the ground of their ultimate unity. Without justice indeed no ontology is possible,⁽³⁾ it is a metaphysical and general virtue, the old

(1) Ibid., p.117.

(2) Paul Tillich: Love, Power and Justice.

(3) Ibid., p.50.

natural law of cosmos and city, and the fight for the rights of man against cynicism and dictatorship can be won only by 'a new foundation of natural law and justice.'⁽¹⁾ All morals and ethics imply or assert the nature of man and being, and should be related to them.⁽²⁾

Professor Tillich's chief theme is that on the basis of ontology love is the principle of justice, for in God, who is Being, love, power and justice are one.⁽³⁾ They remain, nevertheless, human concepts, and although they must also become one in human experience they merely describe metaphorically, as symbols, what is in God. On the human level there are confusions and ambiguities in each separate concept and in their relationships, but spiritual love, power and justice can overcome these difficulties. Justice must be dynamic and creative, breaking old forms to adjust to new situations,⁽⁴⁾ it must be entirely personal, for justice is always violated if men are treated as things.⁽⁵⁾ Personality must become a principle of justice, and this may mean giving up proportional for creative justice such as is found in the reconciling forgiveness of Divine love.

Professor Tillich thinks that compulsion is only unjust if

(1) Ibid., p.56

(2) Ibid., p.72

(3) Ibid., p.111.

(4) Ibid., pp.57-8.

(5) Ibid., p.60.

it destroys rather than fulfils its object,⁽¹⁾ and throughout he insists that punishment may be the work of justice. Even human justice does not contradict but completes love. Indeed to neglect or waive justice may reduce love to mere emotion or sentimentality, for justice is the form in and through which love performs its work. "If love does not include justice it is chaotic self-surrender", and to be unjust towards oneself is to be unjust towards the other. Hegel he thinks was right when he said that the criminal has a right to punishment.⁽²⁾

He thinks that love does not contradict but transcends justice, as revelation does reason.

Nevertheless, in spite of such faith in their ultimate and theoretical harmony Professor Tillich does not sufficiently face or reconcile their practical position. He does not really explain away the apparent contradiction between love and justice in God's forgiving and justifying grace, when he admits that

'nothing seems to contradict more the idea of justice than this doctrine... it seems to be utterly unjust to declare him who is unjust, just.'

He does not make clear the sinner's inherent claims to 'be

(1) Ibid., p.67.

(2) Ibid. p.67

declared and made just by reunion.'⁽¹⁾ The same dilemma is present in the conflict between love and power in God. This tension he thinks refers basically to creation, and his acceptance of the physical and moral evil in the world because it occasions the opportunity for man's independence from and a resulting reunion with God, is a little complacent. He says that God's power is not that He prevents but that He overcomes such estrangement, but he does not sufficiently consider the responsibility for the creation of evil. He believes God's sharing the suffering of His creatures shows a unity of love and power in the depth of reality itself.⁽²⁾ The tension between love and justice are related, where they are revealed as one.

Professor Tillich asserts that love has to destroy what is against love, and yet to save the sinner through forgiveness, but he gives no clue as to how this can be done. Indeed he gives the impression that he could accept the bodily destruction of a murderer as an affirmation of love, if accompanied by prayers for his soul,⁽³⁾ and that he agrees with Luther's opinion that

'Sweetness, self-surrender and mercy are...
the proper work of love, bitterness, killing,
and condemnation are its strange work, but
both are works of love.'⁽⁴⁾

The main complaint he makes against Luther is that he did not

(1) Ibid., p.86.

(2) Ibid., p.113.

(3) "It made the reunion of the radically separated soul of the criminal with himself and with the souls of his natural enemies possible."

(4) Ibid., p.49.

(Ibid., p.50.)

recognise the tragedy as well as the strangeness of such love.

Again he gives no practical answer to the problem of power relations between social groups, but asserts that no answer could be given on the level of practical political organisations. He asks whether there is an answer out of the relation to the ultimate, that is, an ontological answer, but his own reply is vague. It is to praise pacifism, in spite of its theological weaknesses, for having kept this question alive, but at the same time he blames it for having focussed on the problem of war rather than on a wider area of predicaments of power.⁽¹⁾ He gives no final answer, except a rejection of perfect adjustment as meaning a rejection of creativity, and ends on the doubtful note that

'... a world without the dynamics of power and the tragedy of life and history is not the Kingdom of God, is not the fulfilment of man and his world." (2)

Justice indeed is no easy virtue to define or to attain, for it has to be too precise to be human. One might say that nowadays it is something of a lost cause. In relation to the secular world it appears too idealistic, abstract and conditional to be practicable. In relation to religion it is variously defined as inferior to and dependent on Christian love, a stepping-stone

(1) Ibid., pp.122-3

(2) Ibid., p.124.

to it, or a substitute which is more practicable, particularly in political relationships.

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It is perhaps surprising, therefore, to find justice still being championed so resolutely today. In a statement⁽¹⁾ made by Bishop Dun and Professor Niebuhr for example, the inherent difficulties in realising it and the confusion between justice and love, particularly in relation to war are only too evident. They rebuke Christians who would express Christian self-sacrificial love in a collective situation such as war, where justice should be the instrument of love. They also, without giving evidence, rebuke them for not applying their understanding of love to all areas of life, and for not regarding 'the love - command... as an overarching principle which confronts the Christian in all his

(1) Angus Dun and Reinhold Niebuhr: God Wills Both Justice and Peace, originally printed in Christianity and Crisis. Vol.XV.No.10 June 13th, 1955. and in The Student World, No.2. 1956, pp.134-142.

relations' but 'as a neat formula to use in situations of violence'.⁽¹⁾ They think it right to suffer rather than to inflict suffering in a personal relationship, but that to accept suffering individually in a social situation is to inflict it on others. If this were so, however, it would not prove that resistance inflicts less suffering.

Again, presumably because their idea of justice, as in Aquinas, is predominantly rational and based on calculation of consequences, they seek to refute those who would substitute love for resistance as a deed of sheer obedience to God. Yet they admit that some refuse to participate in warfare on the basis of calculation of consequences. There are, therefore, two opposing opinions about what course of action justice decrees, and one of them would seem to lead to a course of action identical with one grounded on loving obedience to God. They go on to allow that it is no longer possible to calculate consequences. Modern weapons have created a new dimension of catastrophe, so that when we make our moral calculation of consequences of a just war we must remember that they will probably include tremendous incalculable destruction on both sides, so that it is not possible to decide in advance at what point it would be better to take the position of non-resistance than to resist. They should reasonably conclude, therefore, that

(1) Ibid., p.135.

justice is of no further use as a yardstick in judging matters of warfare. However, their conclusion is that since the ultimate consequences of warfare cannot now be measured, only the most imperative demands of justice have a clear sanction. This amounts to standing by the abstract principle of justice, even though actual justice cannot be known or attained without surely calculated results. Criticism of those who do not take calculation of consequences into account and of those who stand by the principle of obedience to God is, therefore, itself unjust.

After upholding the claims of justice to rule questions of war because it can be applied to collective situations, Professor Niebuhr and Bishop Dun suggest that the moral question of war must be thought of in terms of individuals. They state that when war was recently condemned as 'contrary to the will of God'⁽¹⁾ it was condemned as a social evil but that this does not mean that victim and aggressor are equally condemned, for if war is thought of as an individual because a social evil, justice disappears. 1

It is difficult to see how one can condemn war without including aggressor and victim, for without either there could be no war. If judgement is to be done to and for individuals, then war is primarily no longer a collective situation, and the

(1) The Amsterdam Report.

Christian who takes an individual stand and expresses an ethic directed towards individuals should not be blamed.

Professor Niebuhr and Bishop Dun agree that most Christians rightly acknowledge the 'delegated, relative and provisional nature of the state authority', and that it applies to unredeemed society. Yet they blame Christians who refuse to participate in war both for having a limited idea of Christian citizenship and for taking it seriously. Such Christians they say at best allow responsibility towards the state's justice only up to the point where the coercion and violence commanded would violate their consciences, but in this they are wrong because

'... the demands of the Gospel challenge him at every point, and not merely when the state resorts to force.' (1)

This suggests that Professor Niebuhr and Bishop Dun agree that the use of violence and force in war is unChristian, and that in such circumstances the Gospel should challenge the state. Their indictment of pacifists for not holding to such a critical stand more rigorously and widely is hardly a condemnation of the attitude itself. For one thing it is strikingly untrue that all pacifists are uncritical of the state in other directions. Nevertheless, they are further condemned for doing too wholeheartedly

(1) Ibid., p.37.

in one direction what they have just been recommended to do in all. For they urge the church to renounce war and to preach non-resistance to the enemy.

Professor Niebuhr and Bishop Dun go further and seek to reprove all who do not think of the problem of war in political terms, and yet they accuse advocates of unilateral disarmament and national non-resistance of trying to impose a policy - in this case a pacifist one - upon the state. How they contrive to make advocacy of a hopeless cause the same thing as the imposition of a policy must remain one of the unsolved mysteries of higher thinking. Pacifism may be misguided and wrongheaded but this last indictment contradicts the previous criticism that pacifists are not socially conscious. It also contains an implicit admission that not only can no 'individual' ethic be enforced, but that it ought not to be advocated anyway. All evangelism would appear to be done away with.

Professor Niebuhr and Bishop Dun conclude that after all, and although other elements have to be taken into consideration, the question of war must be answered in terms of individual justice and individual conscience. Even these are insecure, they think, because the human mind can easily make wrong conclusions from the

words of the Gospels or from moral principles.

The Bishop and the Professor then review all the 'collective' answers to the question of war from the point of view of their ability to help individual decision. The Catholic just war tradition is rejected as a rigid and artificial structure, likely to confuse rather than to enlighten.⁽¹⁾ One of its conditions is that more good than evil should be done if a war is to be justified, and Professor Niebuhr and Bishop Dun think that the conclusion from this that no war can now be just, implies that the moral problem of war is being ignored. But such a Catholic condition is an application of the rule that consequences should be calculated, a rule strongly championed by Professor Niebuhr and Bishop Dun, who are therefore unfair when they say that 'Here the effort to preserve an elaborate formula has gotten in the way of clear thinking.'⁽²⁾

They regard international law and institutions, as providing the most objective collective judgement available, but think that even this is neither infallible nor impartial, and undue reliance should not be placed on it. They acknowledge the position which is held by some Christians, that in the absence of supranational

(1) It is interesting to note, therefore, that Professor Ramsey assesses the position of Professor Niebuhr and Bishop Dun as 'in general that of the just-war theory.' (p.88.)

(2) p.140.

institutions military action is the ultimate source of law, and citizens must be encouraged to defend law.

What is significant is that all these theories are valued as guides to the individual conscience. Another criterion is that Christians should take part in a war waged to vindicate 'essential Christian principles', to defend wanton aggression and to secure freedom for the oppressed. Professor Niebuhr and Bishop Dun reckon that because such a criterion stresses conscience and avoids elaborate formulas it comes closer to the idea of a just war; on the other hand they think it gives little direct guidance to conscience and is 'rather crusading'. It is this Christian sense of duty which they look upon as the reincarnation of the idea of the just war, which was as a theory so recently rejected. When they say that modern weapons make the aggressor more sinful than every they admit that the different nature of modern war does affect its sinfulness. They conclude, however, that the defender is proportionately more virtuous for putting down such criminals, even though he uses the same weapons.

Professor Niebuhr and Bishop Dun conclude that only a war to defend the victims of wanton aggression can be justified, but this is qualified with the insistence that the demands of justice

must join the demands of order, that justice must not disturb peace. Therefore, a war to secure freedom for the oppressed cannot be justified, as the claims of peace and order are reckoned much greater than those of justice. Christians who refuse to participate in warfare were previously blamed on the ground that there can be no true peace without justice for choosing peace rather than justice.

But in spite of the fact that the type of injustice which is oppression is acknowledged as never more abhorrent to the Christian conscience, and never more dangerous to true peace, they do not regard that ending it is justifiable. And yet they finally reaffirm that no lasting peace is possible except on foundations of justice.⁽¹⁾

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The above arguments prove that individual and political

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- (1) Professor Ramsey criticises Professor Niebuhr and Bishop Dun and points out that it is not easy to separate aggression from defence in the modern situation, and that it is rather illogical, therefore, to agree to disturb peace and order in order to defend victims of 'aggression' but not to defend victims of oppression. He thinks that the Hungarian revolution has proved this.(p.89.)

responsibility, like individual and common good, are not easily harmonised, and that there is likely to be difference between individual and political justice as well as between justice and love. Modern thinkers, as well as Aquinas, are too inclined to regard the state as having a strictly definable and separate authoritative function in matters where there is considerable scope and need for individual initiative and interplay.

It is misleading to assume that the state, a limited community in any case, rules justly for and covers adequately all man's social relationships and duties. Aquinas stressed that man is a social and political being, but the two are not always synonymous, and may conflict. Man's extra-political relationships are equally important if not more so than his political needs and duties, and they may modify the aptness, righteousness and authoritative claims of the latter. The assumption that only the monarch or persons of rank having public authority can rule for the common good shews a narrow notion of the latter. It cannot mean the good of mankind, for such is beyond the goal of a particular state, nor can it mean the common good, in its widest sense, of only one state, for although such common good is something towards which political and legal activities can contribute, it is not their exclusive concern. The state is more likely to hinder than help its achievement if it

claims anything like absolute authority for its own limited ends.

In a telling manner, Father Gilby takes up the traditional distinction between community and society, and paints it afresh, in such a way as to suggest that although each is separately definable in the abstract, in reality they are interdependent.

The community group he thinks forms a mass composed of parts which by themselves are fragments, whereas each member of the society is complete in himself. The society indeed produces no collectivity or group, display no hierarchical system and imposes no positive laws,⁽¹⁾ for while the good of the community should be ordered by legal justice, interplay in the higher society of individuals is spiritual. The law of the lex talionis is at work in any community but friendship and forgiveness should rule in society; while the community is a city of force, the pure society is a city of freedom.

The Universal Good aimed at by a society of persons is unlike the collective good which is the aim of a community.⁽²⁾ Such collective good amounts to a sum total of parts, and must sometimes interfere with the particular good of the parts, which are subservient to it, for it is a 'heap value', the benefit of a majority according to individualistic utilitarianism. The common good of a society is distributive in that all, whether singly or

(1) Between Community and Society. p.194.

(2) Ibid., p.195. p.211.

together, share in it,⁽¹⁾ and in this common good and personal good are not at opposite poles as they tend to be in a community.

Corresponding to his distinctions between community and society, Father Gilby makes a contrast between an individual considered as a member of a community and a person, considered as a member of a society,⁽²⁾ An individual is amore or less repeatable unit, separable only from others of the same kind, 'to be manipulated in the common multitude', but a person is a centre of responsibility, a world in himself. Individuals are means to an end, even if the beneficial end of the common good, but persons are ends in themselves.

Political organisations Father Gilby thinks, should swing between community and society, for these are not mutually exclusive and their boundaries are flexible.⁽³⁾ Indeed his opinion is that Aquinas condemned by implication the strict separation of the sacred and profane communities.⁽⁴⁾ The human community ascends to the conditions of the human society through political institutions, and the life of this spiritual society flows back into the depths of the material community, and so he is content that the Crusades provided outlets for the land-hunger of the Franks besides being gestures of penance. The

(1) Ibid., p.89.

(2) Ibid., p.201.

(3) Ibid., p.78

(4) Ibid., p.77

'... physical huddle, the political group, and the heavenly society... are different aspects merging into one another within one single ascending social progress,' (1)

and he thinks that, historically, a community belongs to different categories according to who is considering it. (2)

Just as the political community moves between pure community and pure society, so the citizen is part individual, part person. (3) The typical political organisation is :

"... a communication of rational animals undertaken for mutual benefit... yet responsive to unpremeditated self-interest. The parties help with one another's burdens, but do not displease themselves --- The association is all the stronger when everybody gets something out of it." (4)

The political community is, he holds, an accidental whole, although in harmony with natural law.

"The state shifts between man and society, the citizen faces both ways submerged, carried, protesting."

Thus Father Gilby sees the problem at issue as that of social responsibilities and relationships which cannot be compressed into politics rather than that of the division between

(1) Ibid., p.88

(2) "Historically a community can occupy several departments at once. For one the state may be a collective whole(propaganda) For the Chief of Bomber Command the second (integral whole) and for the legists charged with announcing the Peace Treaty the third (artificial whole.) (Ibid., p.111.)

(3) Ibid., p.201.

(4) Ibid., p.170

the regulations of the secular state and the 'conscience of personal religion.' The individual should be entirely subordinate to the good purposes of the whole, but politics cannot comprehend this whole.⁽¹⁾ And he thinks that Aquinas's true thought is to be found by not only relating particular justice to legal general justice, but also by relating the common good of the community to the more universal and personal good rising up behind the universe.

That religion or religious loyalty is not a purely personal affair but one which has social significance he thinks proved by the life of Gandhi.⁽²⁾ And he thinks that the attraction for the conditions of pure society is not after all remote from politics and that

'... the common good should not be restricted to juridical patterns, or what nowadays would be called political values for it includes all social qualities, some of them not at all official, such as the humour, doggedness and patience of the people. And beyond this country, another opens out, the universal and surpassing good of the heavenly city, in which each and all are achieved.'⁽³⁾

Every man exists at once in and above nature, and has to struggle between being himself and belonging to a group, being

(1) Ibid., p.207

(2) Ibid. p.228.

(3) Ibid., p.118.

an end and being acted on as a means. Like Professor d'Entrevès, Father Gilby recognises that for Aquinas no organisation should cramp the individual.

"The ultimate substance is the person.
No higher containing compound exists,
nor anything like an Oversoul." (1)

Father Gilby's ideal, which he believes was that of Aquinas also, that political life should swing between community and society, depends for its practicability on the particular form a government takes. The individual, according to Father Gilby, remains supreme in Aquinas's political and social organisation. Whether and how this can be so cannot be seen without discovering what Aquinas thought was the best form of government.

X X X X

(1) "With one voice he echoes the Augustinian teaching that the human person is made to the image of God --- With another voice he echoes the Aristotelean teaching that virtue is essentially social, that every act is a political act --- It is as though he were attempting to combine Aristotle's teaching that the good life is impossible outside the State with the Stoic teaching that man has aboriginal rights independent of the State.' (Ibid., p.203).

AQUINAS'S IDEAL FORM OF GOVERNMENT.

Aquinas considered the main traditional theories of the forms of government, monarchy, oligarchy, and democracy, and their corresponding perversions. His argument for monarchy was that since the peaceful unity of society is the aim of government, this is best achieved by a government composed of unity itself, that is one man. This attitude was based on his metaphysics and theology, in that the more perfectly the form exists in the cause, the more perfectly it will be achieved in the end. It has analogies also with God's rule over creation, and with the government of such communities as bees.⁽¹⁾ There seems to be confusion here between singleness and unity. For the unity government hopes to achieve is a harmony of separate things and more likely to be achieved, on Aquinas's argument from analogy, by a governing body of separate persons. A harmonious and united family is more likely if both father and mother co-operate to guide and organise it. The unity of a city or a province cannot be identified with the individual

(1) De Regimine Principum. lib. 1. cap.11.

loneliness of a single person. In any case the former is an artificial, limited and at best imperfect unity, shutting out, as it must, the rest of mankind. Agreement between different persons, particularly if they are representative of the people, is a more genuine unity than the unanimity of one man. Moreover, it is quite possible for an individual to be divided within himself, to be uncertain, weak, capricious, or more frustrated and harried by influential advisers than if they were openly sharing his power. A chorus expresses the notion of unity more clearly than a solo, which expresses rather the notion of singleness. Unity is a much richer thing than mere singleness, and the more valuable the more comprehensive and integrating it is. The 'king' of the bees is an egg-laying prisoner of the community rather than an autocratic sovereign. Aquinas also went astray when he said that

"... cities or provinces which are not ruled by one person are torn by dissensions." (1)

However, even if it were true that in ideal conditions monarchy were the best form of government, the fact that Aquinas believed that tyranny, the perversion of monarchy, is the worst

(1) Ibid., cap.11.

form of government seems to prove that in his opinion the goodness or badness of a government depends more directly upon the moral character of whoever rules than on the actual form of the government.

Aquinas allowed that the very virtues of monarchy present opportunities for perversion and misuse. Thus one could argue that the characteristics of all the types of government considered by Aquinas are so equally balanced between advantages and disadvantages that they promise even chances of success. Nevertheless Aquinas maintained his preference for monarchy. There are passages which suggest that Aquinas favoured what we should call constitutional monarchy;⁽¹⁾ Father Coplestone is of the opinion that this is his final choice, though it is doubtful whether he would in any sense openly acknowledge the sovereignty of the people.⁽²⁾ At times the superiority of the sovereign over all law was stressed, but at others the sovereign was held to be bound by the law of nature. It is Sir Ernest Barker's opinion that 'it is in the writings of St. Thomas Aquinas that the theory of Contract is finally hatched', and he attributes such political liberation to the coming together of three main influences, Biblical teaching, Roman law and

(1) S.T.1.11.Q.105. Art.1.

(2) Aquinas, pp. 232-3.

Aristotle's political ideals, which are evident in Aquinas's contention that although God ordains the sovereign authority, its constitutional form and exercise are governed by the people. (1)

Flückiger thinks, however, that although Aquinas modified his conception of monarchy, and in a few places appeared to support a slightly more democratic form of government, the emphasis was most strongly on the comprehensive superiority of the monarch. (2)

Self-regard appears to be the corrupting element in the rulers. Aquinas at one point seemed to suggest that it is much better if the self-interest of as many people as possible holds sway and is satisfied, than if only a few indulge in it at the expense of others. (3) Self-interest, then, is not wrong in itself, but should be limited and restrained by the self-interest of others. This underlines Aquinas's premiss that mutual self-interest is one of the fundamental raisons d'être of the political community.

Yet Aquinas argued that monarchy is the best defence against tyranny, and that even the latter is better than the corruption of

(1) Social Contract. Intro. by Sir Ernest Barker. p.Vll.

(2) Geschichte des Naturrechtes, pp.463-4

(3) De Regimine Principum, lib.1. cap.111.

democracy, since the dissensions which commonly follow government by many are destructive of peace, the most important good for any community.⁽¹⁾ But this good, Aquinas reckoned, is not destroyed by tyranny unless the latter is so unbounded as to enslave the entire community. Aquinas did not seem to consider that the exploitation and deprivation of the community by the tyrant are likely to endanger peace as well as prosperity.

Certainly this attitude contradicts the earlier assessment of tyranny as the worst form of government.

Nevertheless, he continued to argue that there is less likelihood of corruption establishing itself in a monarchical form of government, and of the monarch becoming a tyrant, than there is of an oligarchy or democracy becoming easily upset, perverted and degenerate. He reckoned, surely without any foundation, that a man may more often be deflected from the common interest if he be 'one of many' than if he be alone in government, since disagreement among rulers splits unanimity and is likely to end in strife.⁽²⁾ It is true that Aquinas's understanding of democracy was that of Plato and Aristotle, and not that of the modern western world. But it is equally true that the monarch or dictator may, in the absence of opposition,

(1) *Ibid.*, cap.V.

(2) De Regimine Principum. lib.1. cap.V.

preserve an unjust form of 'peace'. There is no guarantee that a monarch will be naturally inclined to act in the common interest, nor, as Aquinas seemed to think, that his tyrannies, if they do exist, will be trivial. Further, in pointing out the disadvantages of a pluralistic form of government, Aquinas warned that its corruption is likely to arise through its degeneration into the rule of one man.⁽¹⁾ If tyranny, or corruption of any government does arise, it is not essential to sacrifice by killing one, or a few individuals, even for the common good. There are two reasons why this is so, the first being that it may involve the risk of greater evils, the second that such an act would be opposed not to the common good, but to divine teaching. So that a direct conflict between the common good and divine teaching,⁽²⁾ or between the material good and the spiritual good of the community is here thrown into relief. And the divine teaching is preferred.⁽³⁾

Sometimes, however, the tyrant although he cannot be killed by 'the more powerful 'citizens' can be deposed or restrained by 'public authority',⁽⁴⁾ As Aquinas appeared at times to favour a constitutional harmony of democracy, oligarchy and monarchy,⁽⁵⁾ therefore, he must have allowed that the vox populi can have

(1) Ibid.,

(2) 1 Peter, 11.20.

(3) Ibid., cap.VI.

(4) De Regimine Principum. lib.I. cap.VI.

(5) 'There is in addition another form of mixed government, constituted from all the elements just mentioned, and this is the best form of government. In this, law is enacted according to the definition of Isidore (Etym.V.10.) 'by the common sanction of nobles and people'. (S.T.1.11.Q.95. Art.1.)

certain powers of restraint. The rule of the people, which he elsewhere designated as the breeding ground of tyranny has to be recognised here as making a contribution towards the safeguarding of justice. As a last resort, Aquinas said, the help of God may be invoked against a tyrant. (1)

The relationship between the king and the church was not for Aquinas entirely clear, and this blurred boundary between the realms of king and pope was present also in the relationship between natural and revealed law, and between natural law and eternal law. It would appear that no office could be higher than a king's, for he is in his sphere analogically likened to God in His. He is to his kingdom what the soul is to the body, and what God is to the universe, its ultimate controller and guide, its source of power and authority. However, not even a perfect king is capable of fully guiding his kingdom towards its true supernatural or spiritual goal. He has some responsibility for its moral goodness, but is more essentially concerned with its material welfare. The goal of the king, therefore, is limited and partial, and so is his responsibility, though in securing the material well-being of

(1) Ibid., cap.VI.

his people he is helping their progress towards their supernatural end. Aquinas thought the first requisite of well-being was virtuous action, but the secondary requisite, which is apparently a means to the first, is a sufficiency of material goods, and harmony and peace within the community, so that it may employ itself in doing good.

The supernatural goal is revealed by the church, and the Pope is responsible for legislating and helping men to attain it. Christ is the divine ruler in the absolute sense and under Christ kings must be subject to the priests. The prime example, of this, was the gradual subordination of the rulers of Rome to the pontiffs. (1)

The king and the state, therefore, were separate from the church but ultimately subordinate to it. Father Coplestone thinks that it was not easy for Aquinas to define the relationship between the two precisely. If he had lived during the time of the strong monarchies of Europe no doubt he would have found it useful to make a more discriminating and dogmatic analysis of their separate functions. Father Coplestone claims that for Aquinas the end of the State, as much as that of the Church, was the supernatural end of communion with God, since man has in fact only one final end. (2) This raises a problem involved in

(1) De Regimine Principum. lib.1. cap. XLV.

(2) Aquinas, pp.233-4.

the whole doctrine of natural law. If the latter is unable to envisage the final end, how can a limited one be allowed in the face of teleological necessity.

At the least there should be co-operation and mutual respect between Church and state, and the latter is so endowed with Divine power and sanction that even a usurper or a most imperfect being who creates disturbance or disorder does so with the permission and overruling power of God.

Human laws are binding insofar as they are just, which means, above all, that they must be in accordance with natural law. Inasmuch as they contravene the latter they are unjust.⁽¹⁾ Both first and secondary conclusions from the first principles of the law of nature are included in human law in that it aims at the good of the city or larger unit for which the administrator promulgating the law is responsible. This is in full accord with the recommendation of natural law that good should be done, and might be inferred from the natural law itself. To be valid, the law must be promulgated by the ruling power.⁽²⁾

This close connection of the justice of a law with the authority and eminence of its author is strikingly evident in

(1) S.T.1.11.qu.95. Art.2.

(2) Ibid., Art.4.

Aquinas's argument that even an unjust law retains, by virtue of such a connection and its semblance of justice, an element of power and authority. Here there seems a danger of acknowledging even the devil at least for his power, or giving credit to the wolf for his sheep's clothing. The greatest hypocrisy, even blasphemy, is to use the name or the appearance or the power of divinity to conceal and achieve an unjust purpose.

The supreme governing power may not only apply but also make the laws. Nevertheless, only those laws which are just are binding on the conscience, except apparently, when observance of them would prevent a worse evil than disobedience. If the legislator acts for his own ambition or self-interest against the common good, or if he violates the trust placed in him, or exerts more power than he should, his enactments have no binding force. And any law which contradicts divine law is unjust. Flückiger points out that because the divine law and order was not understood in the middle ages in an eschatological sense but in an institutional one, it was thought to be contained and completed satisfactorily by the church law, but this was, nevertheless, not the legislation of the papal court, but a more indirect spiritual power.⁽¹⁾

(1) Flückiger, pp.459-460.

Aquinas's arguments for the supremacy of monarchy are rather artificial. Unity is not individuality. The relative dangers of perversion of the various forms of government he considered prove that the characters of the ruling person or persons are more important than the form of the government. All types of government considered by Aquinas are so equally balanced between advantages and disadvantages that they are more or less equal in value. Aquinas thought that the best form of government allowed for the self interest of as many as possible to be taken into account, and this is surely to be achieved by something resembling western democracy; but Aquinas condemned democracy as the worst form of government because he thought is likely to degenerate into the bad rule of one man. This he thought would arise when a monarch becomes a tyrant.

Even the perfect king is not responsible for more than material good. Yet the common good is to be overruled by divine teaching only in relation to certain types of rebellion against a tyrant. Here is an opinion analogous to that of Professor Niebuhr and Bishop Dun, who hesitate to encourage resistance to an oppressor.

Most thinkers regard warfare as the main expression of the sinfulness which, according to most theologians before Aquinas and most Protestants since, necessitated political institutions. Aquinas neither emphasised nor discounted its sinfulness, either as a natural expression of primitive instincts or as a more sophisticated instrument of governments, since he accepted the natural roots of political life as healthy. On the other hand he thought slavery, which was at least a result if not part of war, sinful, and deemed that war, like any other expression of politics, was only justified inasmuch as every man remains free to accept or reject such organisation, and inasmuch as such organisation is for his own good. Self-defence is one of the natural instincts behind warfare, and Aquinas certainly recognised this as justifiable. On grounds of naturalness, he could also have accepted the social manifestations of aggression, acquisitiveness and the desire for supremacy, especially when connected with a desire to survive.

He allowed the state to enforce actions which if carried out by individuals only would be merely permitted as inferior alternatives to non-resistance. He also allowed individuals acting as representatives of the state an intention to kill denied to

individuals acting in a private capacity. At times he seems to have regarded the revealed command of non-resistance to individuals as a command of perfection beyond the responsibility of governments either to recommend or to command. On these grounds he should not have allowed governments to command the opposite as compulsory. Public evil may be different from individual evil, but at least it includes the latter and, therefore, should not have a completely different ruling. And if Aquinas was anticipating Luther's distinction between the love which bids us suffer injustice rather than defend our own lives, and the love which bids us fight in defence of others, it would have meant that he was accepting self-sacrificial love as a standard for political action. Such love cannot however really be commanded. The defence of the defenceless in the face of public evil is also largely balanced by incidental killing of the innocent. If individual non-resistance is upheld as excellent there seems no reason why governments should not at least recommend it even if it has to be seen practically as a counsel of perfection.

There is evidence, however, of confusion in Aquinas's mind about the real nature of the Biblical command of non-resistance. Partly he seemed to regard it as a negative command to restrict

savage anarchic revenge until such time as public justice could be done. This public justice he identified with Divine justice, thus reconciling the human and Divine commands. On the basis of such an interpretation he can consistently allow the state a superior judgement and authority. It is, however, impossible to interpret the command merely in this way. It is in any case doubtful whether in such a mass activity as warfare the state can do justice more efficiently than individuals. The state authority does little more than give approval to the practical administration of 'justice' by individuals. The latter thus bear the practical responsibility, while escaping all moral and spiritual responsibility which, Aquinas thought, was that of the sovereign.⁽¹⁾ Indeed as regards self-defence individuals are in a better position to carry it out more effectively and at a more fitting time than governments.

In any other dispute between states, as in a quarrel between two persons where the lives of many are involved, and where, the matter not being so urgent as self-defence, there is time for

(1) "The person by whose authority a thing is done really does the thing, as Dionysius declares. (Coel. Hier. 111). Hence according to Augustine (De Civ. Dei. 1.21), He slays not who owes his service to one who commands him, even as a sword is merely the instrument to him that wields it... just as a soldier slays the foe by the authority of his sovereign..." (S.T. 11.11.Q.64.Art.3.ad.1.)

arbitration, it would seem that neither of the individual states involved is any more capable of making a just decision than is a prejudiced individual. The monarch, or public judgement, as arbitrator in a contest between individuals, might be more just because more aloof and dispassionate, but in a contest between states each state is as likely to be motivated by revenge as any individual. Thus any likelihood of a really just judgement would necessitate the arbitration of at least another state. Warfare, indeed, is the one situation in which the monarch or governing authority is least likely to be just and rational.

The intention to kill in ^{public} self-defence, however, was allowed presumably because it is reckoned that public judgement is more rational and deliberate. This fits Aquinas's understanding of the ius gentium as a higher because more specifically rational human law than individual natural law. Certainly warfare without the intention to kill is an unthinkable contradiction. It is possible, however, remembering Father Gilby's understanding of politics as having strongly naturalistic roots and as lying outside the realm of ethics, to think of the compulsion and the intention to kill as revealing not greater rationality and morality but greater naturalism. Aquinas's teaching on individual

self-defence was mainly naturalistic ⁽¹⁾ with some rather ineffective 'Christian' inhibitions. It would not be surprising therefore if his political teaching were even more naturalistic, since it had to cover non-Christians as well as Christians, and since he was ruling for wars of aggression as well as for wars of defence.

Indeed, where the war is not one of self-defence or defence of a community in general, it would be difficult to find any cause to justify taking life. Any sin, objective or subjective, which damaged anything less than life would seem not great enough to justify war, especially as private property is not according to natural law originally but only according to natural law by addition. Since an individual cannot even intend to kill when his own life is threatened, it would appear quite unjust for a public body to intend to kill for any lesser reason. Aquinas's distinction between private and public evil is in his commentary on non-resistance, and he appears in fact to be thinking mainly of defending life, not of resisting other evil. ⁽²⁾

In his war articles he justified the individual's waiving

(1) See above p. 309.

(2) See p. 307-8 above. The just war theory, it was pointed out, operates only up to the first moment of attack. Once the unjust side are in the position of defending themselves even they too are equally justified on grounds of the right of individual self-defence.

the command not to resist if it is for the common good.⁽¹⁾
 This suggests that he did not really consider non-resistance, even in individual relationships, as an absolute command of perfection, since it cannot guarantee the achievement of the greater good for all.

This raises another question, which is not necessarily connected with the difference between individual and political responsibility, that of the common good. Aquinas rated legal higher than particular justice because it aims at a wider good. This is another reason why he sets 'political natural law' higher than purely individual natural law. Such a comparison is strengthened by those of his interpreters who suggest that the individual has no rights in relation to the community and that individual law is restricted to inward spiritual and contemplative matters, whereas active and practical matters should be ruled for by politics.⁽²⁾ These interpretations are inaccurate, however. And Aquinas himself had to contradict the leading principle of his natural law teaching, that is, that the law of nature is reason itself, in his attempt to prove that the ius gentium is, because more rational, different from natural law. And this difference implies superiority, since it is by virtue of his reason that man is superior to the animals.

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- (1) Annas and Caiaphas argued that Jesus should be sacrificed for the good of the nation, but for this they stand condemned, because they put apparent social and political equilibrium before true justice.
 (2) See above pp. 337-8

In fact the relationship between individual natural law and the political and social natural law is not clear-cut, neither is that between individual good and common good. Legal justice which seeks common good stems from the individual and is not confined to political activities. Altogether apart from politics an individual can affect a large number of people, including future generations. Aquinas at one point said that a public judgement was essential for any matter affecting many people, but he did not shew at what point such collective judgement is needed for any individual or collective action which affects the good of the community. Such judgement is, of course, already included in any collective action. At what point it becomes essential in any individual decision which affects the community is not clear. In any case, a common judgement is not necessarily less biased than an individual one.

In warfare, then, the individual's reaction affects the community for good or ill. Individual participation in war can be looked at from two points of view. It may be seen as a participation in which the individual is central, in which he employs his own conscience will and knowledge, and in which he is tied by no irrational prejudices to any particular group. He can then decide, (after taking into the account that he may be

himself more materially dependent upon one side) that to align himself with one rather than the other side will help towards greater justice for all. He may, by virtue of his belonging to one community, be forced by it to fight on its behalf. If such action is against his own conscience and decision he would be acting, as Father Gilby would say, as an 'individual', a mathematical unit, not as a person. And his 'personal' element would have to express itself as best it could in other ways.

From the point of view of the justice which issued from the state towards the individual, warfare is never justified, for Aquinas thought that the killing of any man is always unjust in itself. Its incidental effect of benefitting the community he thought just, though even this justice is difficult to guarantee. That the state orders its individuals to defend themselves, their source of existence or the defenceless in their midst, appears more or less as just as individual self-defence, but it should be surely permitted rather than compelled on the political level, especially if the good of more than one nation be sought. When two states are locked in conflict the common good for which each strives is in conflict too. The common good of any limited community is itself likely to be limited and may even prejudice the common good of mankind.

Commutative justice would seem less accurate than distributive justice, and in warfare this latter can certainly not be done. Indeed the only justice possible in war is that which is worse than commutative, for it is unequal without good reason, arbitrary, clumsy, chance justice as far as individuals or groups are concerned. Even on a purely material level, therefore, the common good which is the only justifiable aim for warfare is ambiguous and limited. Further, such common good is transcended by what Father Gilby calls the 'Universal Good,' that is, the good of society. War is much more than a material concern. It is certainly a political matter but only partially so and it is a different problem for each group. Each individual is related to his group and bound by it to some extent, but he is related to its members not only through politics and law but also through other relationships involving friendship and religion. At the same time he has a relation not only to his own state group but also to other people in other nations, including his political enemy. From a Christian point of view certainly, and even from a rational point of view, material and spiritual responsibility towards mankind must in any conflict override narrower political responsibility. It is conceivable and rational, therefore, that a Christian, believing that his

contribution to the good of mankind is to obey Christ, should, in the absence of the possibility of calculating consequences, and the impossibility of achieving justice, decide to follow the teaching of non-resistance and to love the enemy. He has every right to decide that he ought not to kill in defence of his own life or that of others, but that he ought to protect his friends as far as he can without harming or killing in the belief that, in the long run at least, it will be more beneficial spiritually and materially to friend and foe alike than armed resistance. Aquinas at times seemed to agree that such non-resistance is the essence of Christianity,⁽¹⁾ and although he may have rated 'political' natural law higher than individual natural law, he could not rate it higher than divine law, individual or social. The spiritual good of the community is higher than the material good, as it is the goal towards which the state points. Aquinas allowed the individual relationship between the self and God to transcend and even to do away with political responsibilities, and Father Gilby is more insightful than Professor D'Entrevès in his realisation that such a relationship has social effects. Just as there is often disharmony between individual and social good, there is likely to be disharmony between national and world good, and between material and spiritual good.

(1) See above p. 307

It is important, therefore, to consider whether Aquinas harmonised individual with social Divine law on the matter of war. He never conceived of his 'perfectionist' interpretation of non-resistance on a political level. But on the interpretation of non-resistance as an interim and restrictive command which was merely to inhibit anarchic revenge, he legitimised state revenge and identified it with the wrath of God. Everything hangs, then, on how Jesus' teaching about non-resistance and love for the enemy ought to be interpreted.

In fact, therefore, although there is a difference between his individual natural and divine ruling on defence, there is no difference between political natural and divine ruling. Since there is negligible teaching on war in the New Testament this suggests that the former is being used for the latter. The former is not even satisfactory and certainly not perfect; to bring in the doctrine of the divine authority of the king merely to back up and compensate for the inconsistencies of a political natural law ruling, which from some angles falls below individual natural and revealed teaching, is not convincing. Warfare as organised mass self-defence is imperfect but it has its own kind of inaccurate and naturalistic pagan justice. Still, it is quite secular and has nothing at all Christian about it. To bring in God's blessing to

make up for such imperfections, and to suggest that His will is deliberately done through them, invokes suspicion.

If God's will is really to be done, and if God really does intervene to the extent of inspiring and overruling leaders, there is no reason why He should not inspire the wicked aggressor or sinner to cease from his evil. Since the divinely inspired king or government is given special power, presumably, to impose God's absolute divine law upon individuals, it is hard to understand why such compulsion should be limited to external matters, or why it should be delayed until vengeance needs to be done. Prevention would seem more righteous than cure; compulsory conversion more healthy than compulsory punishment.

Aquinas's political ruling on war is if anything, then, more naturalistic than his ruling on individual self-defence. It is indeed not much more than the latter applied to a collective situation, with the Christian restrictions left out. Since he was considering wars of aggression, such justification is even more difficult to reconcile with Christianity. Even though a war of defence may be allowed the virtue of defending the defenceless, this is spoilt by the incidental killing of the innocent. No war can be more than partly just, since the killing of any individual is unjust in itself. Even the justice which might be done in such

a war is unpredictable and partial. There is nothing distinctively political or Christian about his teaching. The coincidence between human and divine law is no guarantee that there is real harmony between them,⁽¹⁾ it is no evidence of a real incarnation.

Justice is a metaphysical as well as a religious and practical problem. And although its connection with the orders of creation has often been left unharmonised with its relation to Christ, there is so little revealed teaching on the particular topic of war that it is important to consider how this might fit into any cosmological pattern. Professor d'Entrèves, indeed, thinks that it is through its participation in the eternal law that natural law becomes the pattern of all positive legislation. The extent to which Aquinas's understanding of the eternal law can give any guidance on the matter is therefore important.

(1) Indeed it will be remembered - see p.330 above - that Aquinas was not enthusiastic about Gratian's identification of natural and divine law.

CHAPTER EIGHT

THE GROUNDING OF AQUINAS'S NATURAL LAW TEACHING IN HIS NATURAL THEOLOGY.

Since the Eternal Law is God,⁽¹⁾ and since morality consists in a rational participation in this law, it is important to try to decide the extent of man's ability to know the Eternal Law through reason. Unless he understands the Eternal Law, he cannot rationally participate in it, and has no proof that his

- (1) "The Eternal Law is the system of divine government -- thus then all that is in the things created by God is subject to the Eternal Law: but what belongs to the Divine Nature or Essence is not subject to the Eternal Law, but is really the Eternal Law itself." (S.T.1.11.Q.93. Art.4.)

moral certainties given him by the natural law of his reason are from God.

Aquinas considered both how far man can know by his reason that God is, and also what God is. For moral guidance the knowledge of what God is appears to be more important than certainty about His existence, though the two are confused and interdependent. Proof that God exists has no value unless 'God' means something. Aquinas indeed professed to maintain a strict distinction between what God is (quid est) and that God is (quia est), but whether he really did so, and whether it is really possible to prove the existence of something about which nothing at all is known is questionable.

Aquinas set down five proofs of the existence of God.⁽¹⁾

All of them take as their starting point, and rest upon, observed

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- (1) a) the proof from movement, (i.e. the ultimate dependence of all moving entities upon a primary unmoved Mover. (Con.Gen. lib.I. cap.13; S.T.I.Q.2.Art.3)
- b) the proof from efficient cause, i.e. the ultimate dependence of the series of efficient causes upon a primal efficient Uncaused Cause. (Con. Gen. lib.I. cap.13; S.T.I. Q.2.Art.3.)
- c) the proof from the contingency of all created things, i.e. the ultimate dependence of all contingent things upon an absolutely Necessary Being. (S.T.I. Q.2. Art.3.)
- d) the proof from observed degrees of truth and being, i.e. that such degrees imply and necessitate the existence of, Absolute Truth and Being. (Con.Gen. lib.I.cap.13; S.T.I.Q.2. Art.3.)
- e) the proof from design. (Con.Gen. lib.I.cap.13; S.T.I.Q.2.Art.3.)

fact. Only the last of them involves any element of induction and therefore of mere probability. The first four are grounded on causality and the principle of sufficient reason, and are held to establish not mere probability but certainty.

There appears, however, to be some similarity between inductive logic based on experience, but not yielding certainty, and the logical implication, again based on experience and on the principle of sufficient reason, which is supposed to lead to proof.⁽¹⁾ Countless times things appear to be contingent, or at least give no evidence of their self-sufficiency, but it is presumptuous to assert that this is an absolute or necessary contingency, even though to the limited human mind absolute contingency may appear to exist in those cases it is fitted to observe.

Aquinas said that as the existence of an effect is enough to prove the existence of its cause, the 'effects' of God can prove His existence even though, because they are finite and He is infinite, they do not enlighten us as to His essence. The nature of an effect is here rather unreasonably assumed. Once anything is called an effect, its cause is implied. But it is not clear that things are effects and therefore have causes in any other sense than in that of the temporal series.

- (1) The principle of sufficient reason holds that everything has a sufficient reason for its existence; if this reason is in itself it is a necessary being, if in something else it is a contingent being.

In the first proof, that from movement, Aquinas meant by movement not only local and physical change, but also qualitative alteration and intellectual activity inasmuch as the latter is based on the concepts of potentiality and motion.⁽¹⁾ He noted that Plato and Aristotle differ in their understanding of the concept of motion, for whereas to Plato it meant 'any operation',⁽²⁾ so that he could refer to God as self-moved, to Aristotle its meaning was limited to the act of something corporeal and divisible.⁽³⁾ All motion, that is the passage of things from potentiality to actuality, must, directly or indirectly, by a series of causes and effects, depend upon a first cause of motion which is uncaused and changeless. For Aquinas, God was this first cause. He would not allow the alternative of following a causal chain back to infinity, for he held that although a temporal series of an infinite number of secondary causes is philosophically possible, an ontological series is not.⁽⁴⁾

"Hence it is beyond question that he held it to be entirely illegitimate to argue to the existence of God from the supposed necessity of a prius to the temporal series. On the contrary, his contention was that any and every causal series, whether temporally finite or infinite, is inherently contradictory

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- (1) Phys. lib.V.cap.11. lect.4; S.T.1.Q.2. Art.3. ad 2; S.T.1. Q.2. Art.3. ad 2; S.T.1.Q.79. Art.4; S.T.3.11.Q.9. Art.4.
 (2) Con.Gen. lib.I.cap.13.ect
 (3) Phys. lib.VI. cap.lv.
 (4) Commentary on Peter Lombards Sentences, 2.Dist.1.Q.1.Art.5; S.T.1.Q.46. Art.2 ad 7; Con. Gen. lib11.cap.38.

unless regarded as depending upon an ultimate cause which is not in time at all.... The dependent implies the independent, the relative implies the absolute."⁽¹⁾

The illogicality of an infinite series of ontological causes seems no greater than that of an Uncaused Cause, or Infinite First Cause. For both these concepts contradict Aquinas's belief that everything must have a cause. Indeed it appears that all perceptions from the human perspective, merge into a single vanishing point.

Aquinas argued that an infinite series of causes is illogical because it eliminates a first cause:

"...And so it must be said universally of any infinite, whether in the order of causes or the order of magnitudes, that all its parts are intermediate; for if there were some part that was not intermediate, it must be either the first or the last, and each is incompatible with the concept of the infinite which excludes every term and beginning and end... And so, if moving causes proceed to infinity, there will be no first cause, but the first cause is the cause of all the others; hence it will follow that all causes will be wholly removed; for if the cause be removed, all those things are also removed of which it is the cause." (2)

But the Infinite excludes definition. Infinity has no beginning and no end, therefore the series of causes he refuses to accept are not intermediate, but just causes.

(1) The Conception of God in the Philosophy of Aquinas, pp.61-3.

(2) S.T.1.Q.2. Art. 3.

If God is Infinite, He can only be Infinite Cause and not First Cause. In a series of infinite causes, the first cause will not be the cause of all the others, the series will be; therefore the removal of the first will not mean the removal of all other causes.

If it were unreasonable to work back to a first cause of a temporal sequence, but reasonable to work back to a first cause of an ontological one, it would become more difficult to distinguish between this first cause God and its effects, creation. It would raise also the question of how far it is legitimate to use arguments or principles of reasoning which make essential use of time, for any conception of causality or change would seem impossible if the time factor were wholly left out. This emphasises one of the differences between causality and creation. Likewise, if a temporal infinity is metaphysically possible, it is hardly possible to prove logically beyond doubt that God created time with creation. If a temporal series to infinity is possible the relationship between finite and infinite thus becomes one which does not necessitate a prius. Time and infinity thus become so simultaneous and interdependent as to come near to pantheism and this must at least qualify all other relationships between the finite and the infinite.

Movement is inconceivable to the human mind if unrelated to time. It needs the accompaniment of time. The proof from movement, therefore, can hardly be valid if temporal dependence is ignored.

At times Aquinas limited motion to the activity of that which is imperfect or only in potentiality, and called the other kind of motion, that which is the act of that which has already received its actuality, operation.⁽¹⁾ The latter he confined to non-physical motion such as sensation, knowledge and volition. Aquinas admitted that mind has potentiality, but he distinguished its potentiality from that belonging to matter. The starting point of this first proof is the movement, intellectual and physical, of that which is potential, and not, presumably, operation. Professor Patterson regards this as evidence of the identity of the first and third proofs. The third proof 'reasons from contingency in general to a necessary being which is its cause, the first argument reasons from a particular form or aspect of contingency to the same necessary being.'⁽²⁾

The underlying principle of both proofs is that of sufficient reason.

The second of Aquinas's proofs is the one from efficient cause, and Professor Patterson argues that it too is identical

(1) De Anima. lib.iii. lect. 12.

(2) The Conception of God in the Philosophy of Aquinas, p.70.

with the first. This identity he grounds on the identity of motion and change, and the identity of a causal chain of change or movement with that of cause and effect. Even if we restrict motion to the quantitative and qualitative changes of physical beings the causal chain of change in physical things is the starting point for both proofs. Professor Gilson allows the similarity of the first two proofs but denies their identity, since,

"... the first proof shows us God as the cause of cause of cosmic movement and of all movements dependent on it, the second presents him as the cause of the very existence of things. We have found that God is a moving Cause, now we know that he is the efficient Cause." (1)

He assumes that each proof starts from a different order of effects, but Professor Patterson argues that the series of movers and things moved and the chain of cause and effect are one and the same, and that there is no difference between these and the realm of contingency underlying the third proof. (2)

Those who stress that the second proof is concerned with being, rather than with becoming, point out that Aquinas himself distinguished between causation secundum fieri and causation secundum esse. (3) Others, such as Joyce, are not satisfied that causes in fieri and causes in esse can always be distinguished in nature, and find examples of causes of becoming-and-being together. (4)

(1) Gilson: The Philosophy of St. Thomas Aquinas, pp.61-62 in The Conception of God in the Philosophy of Aquinas, p.72.

(3) S.T.1.Q.104. Art.1.

(4) G.H.Joyce. S.J: Principles of Natural Theology, p.59 (quoted by Professor Patterson, p.76.)

Aquinas himself appears in some places to have denied the impartation of being from one finite thing to another.

"...this is the difference between a divine agent and a natural agent, that the natural agent is the cause only of motion, while the divine agent is the cause of being." (1)

Nevertheless, he acknowledged that certain secondary causes of being do exist in nature. Professor Patterson points out, however, that impartation of being is never witnessed since such causation is only secondary. The starting-point of any chain of causes secundum esse, therefore, must be the same as that of any chain of causes secundum fieri. Nor can the validity of the chain secundum fieri be denied on the ground that it involves an infinite temporal regress, unless the argument from motion is held invalid too. Indeed, any proof based on causes secundum fieri can only be valid if it is identifiable with the first proof.

Professor Patterson considers the possibility of distinguishing the first proof from the second on the ground that the first could refer to accidental change, and the latter to change of substances. But he points out that Garrigou-Lagrange and Joyce both understand that in the proof from motion, motion involves, or means, all kinds

(1) Commentary on the Sentences of Peter Lombard, 1. Dist. 37, Q. 1. Art. 1. sol; Con. Gen. lib. 111. cap. 65; De Potentia, Q. 5. Art. 1.

of change, accidental, spiritual, sensible, local, and qualitative. Joyce defines it as

"... the energetic and therefore incomplete actualisation of a potency belonging to some form of being. The end towards which the process tends may be a new quality; or an increased quantity; or again a specific nature as is the case in the development of a seed or an embryo."(1)

This controversy involves the questions of the nature of being, and of the relationships between being and becoming, and between God and creation. If the processes of being and becoming really coincide, it would seem more difficult to separate God from creation. If created things do not impart being to each other, all things are equal in their degree of dependence on God and therefore any doctrine of degrees of being among created things which is based upon different degrees of dependence, becomes impossible. It would seem that there could only be two degrees of being, - Being, Uncreated, Actual, Simple, Independent, Infinite, and being created, potential, complex, dependent, finite. The qualities of such degrees of being would appear to be too equivocal to allow any analogy⁽²⁾ between them. If created things do impart being to each other in any ultimate sense and if God is the sole source of being, God must be in created things, in a pantheistic sense.

(1) G.H. Joyce: Principles of Natural Theology, p.86. (quoted by Professor Patterson, p.79)

(2) See below pp. 464-5.

If the 'being' which created things impart to each other is nothing more ultimate than a manifestation of change, there can be no evidence of cause and effect in relationship to created being. If there is no chain of being in creation, there is no change of being.

Analogy is grounded on the principle of cause and effect and on the degrees of being; it would seem that this cause and effect should hold between the degrees of being.

Creation seems as different from cause as is an uncaused cause from a caused cause, and utter independence from utter dependence. An effect may be similar to cause in the series cause-and-effect, since both need a cause, and since every effect and every cause is the middle and connecting term between two connected terms. But the effect of creation is not necessarily similar in any way to Creator. Only two terms are involved, the creator and the created, and these in themselves appear to be essentially different. There need be no analogy between a series of causes and effects, and between creation and its effect. This utter difference must permeate the Being of God and that of created things. It is difficult to see, therefore, how there can be analogy where there is utter diversity.

Aquinas's third proof, the one from contingency, was based on

the facts of generation and corruption. The objection to the identity of the starting points of the first three proofs on the ground that the basis of the third is narrower than those of the others since it cannot include accidental change (generation and corruption being concepts which apply only to substances (1) is answered by the fact that accidents are at least as contingent, if not more so, than substances. (2) The stress on the generation and corruption of substances implies a ground beyond nature. Aquinas, however, did not directly describe this necessary being as supernatural or immaterial.

If the second proof is separated from the first, because it refers to God as the cause of being rather than of movement, the second proof becomes identical with the third, which demands an absolutely necessary being as foundation for all contingent existence. Professor Patterson sees no reason for distinguishing the first and third proofs, since although they use different examples such as change, generation and corruption, of the one principle that the ontological priority of an actual necessary being is implied by these manifestations, there can be no metaphysical difference between contingent change and contingent generation and

(1) Phys. lib.V. cap.1. lect.2.6.7.

(2) De Ver. Q.21. Art.5. S.T.1.11.Q.110. Art.2. ad.3.

contingent corruption. Any differences can at most be literal.

The third proof, then, really comprehends the others.⁽¹⁾

The fourth proof, the one from the observed degrees of truth and being, like the others, depends upon the principle of causality. Although some have argued otherwise, there appear to be causal links between the different degrees of being, for Aquinas grounded this proof on a statement in Aristotle's Metaphysics, that

All derivative truths depend upon the
eternal principles of Being and Truth as
their causes. (2)

In his commentary on this passage Aquinas agreed with Aristotle. He illustrated his theory of how various levels of being share, through participation, in Being by describing how fire, the ultimate heat, is the cause of heat in all hot things.⁽³⁾ In The Commentary on Peter Lombards Sentences,⁽⁴⁾ Being was even more directly affirmed as the cause of the being in things. Opponents of the causal interpretations of the fourth proof argue that this illustration is merely figurative. Professor Patterson thinks it odd that Aquinas should have been so inaccurate as to illustrate a non-causal argument with an argument drawn from cause. The

(1) The Conception of God in the Philosophy of Aquinas, p.73.

(2) The Conception of God in the Philosophy of Aquinas, p.83.

Professor Patterson refers to the second book of the Metaphysics chapter. 1.

(3) De Potentia. Q.3. Art.5.

(4) 2 Dist. 1.Q.1. Art.1.

argument from fire was based on the general principle that "... what is the maximum in any genus is the cause of all other members of that genus". The varying degrees of heat which approach ever nearer to the intensity of fire are evidently introduced to illustrate how the varying degrees of being, unity, truth and goodness depend upon and are caused by the Absolute Being which is at once Absolute Unity, Truth and Goodness. For Aquinas, Being, like the transcendentals truth, unity and goodness, was an analogical and not a univocal concept. Truth was, indeed, identical with being. Because it is based upon characteristics which are analogically and not univocally predicated of all existences, the fourth proof does differ from the other, but it nevertheless implies the same causal principle. Certainly, if the distinguishing factor between Being and being, and the determining factor of any levels between them, is the utter independence of the former and the utter dependence of the latter, and if there are thus degrees of dependence or contingency it would appear that the third and fourth proofs are identical also.

The opportunity this argument might seem to present for arguing towards an absolutely evil being was no problem for Aquinas because to him evil was wholly negative. Being was a good, and so an evil being was for him a contradiction in terms. "The

causal series leads us only upwards."⁽¹⁾

Experienced degrees of reality may lead us to conceive of Absolute Reality, but the flaw of the ontological argument would seem to be present if we should posit this Absolute Reality as a fact.

The fifth proof, the one grounded on evidence of design in the universe, from which it is held that there must be a designer, could also lead from instances of apparently wicked design to a wicked designer. Purposiveness and order by themselves do not guarantee goodness either in themselves or their designer. Aquinas, however, thought otherwise, for to him order was the token of goodness. Even so, he allowed that only in a majority of cases can the mind find order in the universe. This majority he held sufficient for his proof.

This proof is open to the usual objection that induction guarantees no more than probability. M. Garrigou-Lagrange, however, argues that the observations of chance instances derive from, imply and illustrate a fundamental principle. As this is not self-evident, it calls for a cause which must be, on the principle of sufficient reason, "intelligent mind".⁽²⁾ Moreover,

(1) The Conception of God in the Philosophy of Aquinas, p.90.

(2) Dieu, son existence et sa nature, pp.321, 190: (quoted by Professor Patterson in The Conception of God in the Philosophy of Aquinas, pp.91-2.

he urges, the purposiveness of events in nature presupposes a guiding intelligence. Nevertheless, even if order were proved to prevail, the connection between a system of self-contained order in the observable universe and a governing mind behind it does not necessarily follow logically, and the connection has often been denied.

It is difficult to understand what criterion Aquinas used in deciding which aspects of creation are analogously similar to the Creator. Flückiger maintains that he had to resort to revelation to distinguish those natural tendencies which are bad from those which are good. (1)

Aquinas agreed that no logical process can ever make up to us for the lack of an immediate and intuitive vision of God. Yet he discounted the metaphysical importance of mysticism and

(1) "Faktisch war für ihn die naturalis inclinatio nur so weit richtunggebend für das Vernunftgemäße, als nicht ein direkter Widerspruch zur christlichen Sittenlehre daraus erfolgte. Sobald aber diejenigen "natürlichen Neigungen" zur Rede standen, die für das christliche Empfinden als "sündhaft" gelten, richtet er sich nach der christlichen Wertskala, und die "natürlichen Neigungen" gelten dann als sinnlich und vernunftwidrig."
(Geschichte des Naturrechtes, p.456.)

in this is unlike most scholastics'.⁽¹⁾ There is not doubt, however, that even though he may not have relied upon mysticism, his conception of God is not an achievement of his logical processes alone, but is largely the fruit of the preconceived and established Christian doctrine of God which he inherited.

Nevertheless, in advancing his arguments Aquinas sought to move only on the grounds of most precise and detailed logic.

(1) "But behind thinkers of the thirteenth century there lay wellnigh a thousand years during which Christian monotheism had been cast in the mould of a Neoplatonic philosophy. The dominant influence of St. Augustine lay like a shadow over medieval Christendom. Theologians no longer seriously disputed as to whether the Deity had a body, or was in space. The word God had been given that stereotyped and conventional significance which it was to retain for five hundred years, down to and through the period of the Deistic controversy and practically until the beginning of the nineteenth century. Incorporeality, aseity, omniscience, immutability, eternity, were attributes included as a matter of course in the conception of divinity." (The Conception of God in the Philosophy of Aquinas, p.27.)

By starting from a conception of an Unmoved Mover and Uncaused Cause, Aquinas, using the negative method, concluded that God is without change, potentiality, composition, materiality, substance, accident, genus, species and so on. Thus, even if such predication is equivocal and analogical, as far as God is defined in negative terms alone He must be univocal with these negative qualities in created things, since the negative can never be transcendent or thought of in terms of different levels of being.

Although he did not acknowledge it in his argument as to what God is not, but claimed that the propositions to which his negative method led must be understood in a negative sense, and although he insisted that the divine essence is beyond human comprehension Aquinas admitted in his refutation of Maimonides that

"... the conception of negation is always founded upon some affirmation; as is evident from the fact that every negation is proved by an affirmation; whence it follows that unless the human intellect knew something affirmatively concerning God it could deny nothing of God. For it could know nothing if nothing which it said of Him could be verified affirmatively." (1)

And it is by means of his doctrine of analogy that Aquinas reaches such positive knowledge of God. (2)

(1) De Pot. Q.7. Art.5.

(2) G.B. Phelan. "... without an understanding of the doctrine of analogy it is impossible to acquire knowledge of metaphysics. The importance of analogy in the philosophy of St Thomas literally cannot be over-estimated. There is not a problem either in the order of being, or in the order of knowing, or in the order of predicating, which does not depend for its ultimate solution on the principle of analogy. Not a question can be asked either in speculative or practical philosophy which does not require for its final answer an understanding of analogy." (G.B. Phelan: St Thomas and Analogy, p.1.)

He distinguished two modes of analagous prediction. According to the first, two things are analagous only because of their similar relation to a third thing, as when being is predicated of substance and quantity. But as there is nothing prior for God to be compared to, this mode cannot be applied where He is part of the analogy. According to the second mode, two things are directly related because they share some common quality. Aquinas used this second mode, the "analogia quae est unius ad alterum," for linking God and creation. (1)

The finite and the infinite seem too far away from each other to allow any kind of resemblance. Aquinas, however, distinguished between two modes of resemblance. The one is that of proportion or proportionality, "according to which one thing stands in the same relation to a second thing as a third does to a fourth," the other the likeness which "holds between members of the same genus which participate in a common quality." (2) Only the first of these applies to relations between God and creation.

Elsewhere the words proportion and proportionality are not used synonymously, but are carefully distinguished in such a way as to make it even more clear that no direct comparison

(1) De Pot. Q.7. Art.7; Con.Gen. lib.1.cap.34.

(2) De Ver. Q.2. Ar, 3; Q.23, Art.7; Q.2. Art.11.

can be made between God and man. The only comparison possible is that between certain proportions which they share proportionally. The similarity remains constant in any comparison between the finite and the infinite.⁽¹⁾ Thus, we can never compare the goodness of man, for example, with the goodness of God, since one is finite and the other infinite. But we can say that as the goodness of man is to man, so the goodness of God is to God. This is all that the analogy of proportionality amounts to.

Since God is indivisible, however, it is inappropriate to compare one aspect of Him with another, except in so far as such division into aspects is recognised as a logical and not a real division. Consequently, the analogy of proportionality is not really applicable where God is concerned, and it is therefore hard to see how it is at all possible to discover any analogy between God and man.

Aquinas was clearly aware of this difficulty, and on the whole he stood for a direct relation between two things and not for the analogy of proportionality. One of his definitions of proportion is equivalent to allowing any relation of one thing to another as an analogy in the sense that

(1) De Ver. Q.2. Art.11.

"... there can be a proportion of the creature to God, inasmuch as it related to him as effect to cause, and as potentiality to actuality." (1)

Yet, on the other hand, he retained at the same time both this position and the analogy of proportionality, apparently regarding them as two equivalent statements of a single position. (2)

He allowed that in order that a thing should be wholly known it is necessary that there should be a proportion between the knower and the thing known. In the analogy of being, this would mean that there should be a proportion between God and man, and therefore it would seem that any analogy of proportionality which is not grounded on some direct relation between God and man must be useless. He also allowed that God is beyond man's power of knowing. It would seem, therefore, that where a proportion between the knower and the known is impossible, one has to be content with a relation of proportionality in which the knower stands to that which is to be known as the knowable stands to that which is known. Proportion, therefore, seems to be no more than "any relation between God and man," no matter how vague or tenuous it might be. As Professor Patterson says, therefore,

(1) S.T. 1.Q.12. Art, 1.

(2) Commentary on the Sentences of Peter Lombard, 4, Dist. Q.2. Art,1.

"Undoubtedly he was anxious to make it clear that the infinite can in no sense be measured by the finite, and yet in the same breath to insist that genuine inference from the finite to the infinite is possible, and that real, though fragmentary and imperfect, knowledge of the latter is attainable." (1)

This raises the question of how valuable, as distinct from true, analogical knowledge is, and whether this is not a more important question than its truth. One half of a cockroach may be to a cockroach what one half of man is to a man, but this is neither enlightening nor interesting. And if analogy only teaches that God is so infinitely different from us that the similarity between Him and us, although real, is infinitesimal, and, for all practical purposes, unintelligible, it is hardly useful. (2)

There is much uncertainty as to whether Aquinas finally preferred the doctrine of proportion (in the sense of direct relation) or that of proportionality. Garrigou-Lagrange, (3) Balthazar, Sertillanges (4) and Valensin favour the latter and claim that it does provide real knowledge of God. Descoqs, however, holds that proportionality is without metaphysical interest because it presupposes and depends on the analogy of

(1) The Conception of God in the Philosophy of Aquinas, p.247.

(2) Anderson indeed concludes that Aquinas's use of mathematical analogy, which in fact is univocity in the form of an analogy, serves to indicate a general property of proportionality "... namely its complete indifference to the natures of the terms related and indeed to the character of the relations themselves." James F. Anderson: The Bond of Being, p.294.

(3) Garrigou Lagrange: Dieu and son existence et sa nature, pp.527-545.

(4) Sertillanges: S. Thomas d'Aquin. tome 1. pp.183-190

proportion.⁽¹⁾ For as God is not divisible into subject and attribute, it is impossible to formulate the proportions between which the relation of proportionality is said to hold. Moreover, we cannot say that Divine Knowledge is to Deity as human knowledge is to man without first knowing what Divine Knowledge and God are.

The ground of this analogical relationship is the theory of degrees of being and the nature of certain analogous terms such as goodness and truth, which are taken to be "transcendentals".⁽²⁾ These "transcendentals" can be applied in different modes to different genera and different levels of reality, such as God and man. The transcendental quality is the element of similarity and the level at which it operates is the element of difference. Incidentally, the difference is not one of grades of intensity, for if it were the transcendental quality would still be univocal. The difference is between different levels of reality, as, for example, between colour, which is an accident inhering in something other than itself, and God, in whom Essence and Existence coincide. Being belongs to all of these, though not in the same way. A name which is applied to both God and man is altered in significance by the degrees of reality to which it

(1) Descoqs: Institutiones Metaphysicae Generalis. p.272.

(2) ens, res, unum, verum, bonum, (admodum)

refers when it is applied to God on the one hand and man on the other. And some names are more appropriately applied to God than others. Thus, names such as "goodness" and "infinity" are said to describe Him literally,⁽¹⁾ whereas others, such as "fortress", which may be used to emphasize His strength, are simply metaphorical.⁽²⁾

Aquinas also distinguishes difference from diversity, Things wholly dissimilar are for him diverse, but there is some similarity in things which are only different. The goodness of God differs from the goodness of man only in the mode of its existence, and this is determined by degree of being. Even the names of transcendental qualities literally ascribed to God may be ascribed to Him only in so far as their signification is concerned. In so far as their mode of signification is concerned they may be denied of Him, for whereas in God these transcendental qualities exist in a more eminent mode, they are known to the human mind only from their appearance at the level of being of creatures. It would seem to follow, therefore, that the goodness of God considered as a whole differs from the goodness of man, whereas the modes of signification of the respective goodnesses are diverse. But as essence, existence, mode and quality are inseparable in God, there seems to be no way of

(1) Commentary on the Sentences of Peter Lombard, 1.Dist. 22. Q.1. Art.3

(2) S.T. 1. Q.13. Art. 3; Con.Gen. lib.1.cap.30

separating what is diverse from what is different.

Aquinas, then really fails to explain whatever was his notion of "difference in similarity". Moreover his understanding of different levels of being, which is the very core of his conception of analogy, is both vague and confused. Professor Patterson thinks that if we had the ability and precision of language, it would be possible to dissect our analagous terms

"... into a number of distinct and simple qualities, some similar, some dissimilar, but all strictly univocal. It is indeed difficult to see how a simple quality could manifest itself at more than one level of reality." (1)

The identity of Divine Essence and Divine Existence only complicates the confusion, since God's simplicity suggests that in Him all the transcendentals are synonymous or identical. This difficulty, as Aquinas says, arises from the fact that God is beyond the grasp of human understanding. (2)

Aquinas dogmatically and consistently asserted that no knowledge of the essence of God is possible. The way of analogy, he held, sought to prove that human beings may know that God is (quia est), not what He is (quid est). Yet his doctrine of analogy does profess to give some such positive knowledge. This

(1) The Conception of God in the Philosophy of Aquinas, p.252.
 (2) De Pot. Q.7. Art.6.

contradiction can only be explained on the rather unlikely and evasive thesis that Aquinas, or the schoolmen, meant by knowledge quid est only, complete perfect knowledge of God's essence, while by knowledge quia est he meant much more than is usually comprehended in the term.⁽¹⁾ By this thesis, indeed, knowledge of God quia est must be given a meaning wide enough to take in knowledge of God's wisdom, intelligence, creativity, immutability, infinity and the rest of the transcendentals.⁽²⁾

The doctrine of degrees of being on which the doctrine of analogy rests would seem, therefore, to depend upon some kind of knowledge of the degree of being of God's essence. And this, Aquinas asserted, is denied the human mind.

Another way of looking at Aquinas's doctrine of Analogy of Being is to be found by comparing it with the two types of imperfect analogy, described in the Commentary on the Sentences,⁽³⁾ and classified by Cajetan as the analogy of inequality and the analogy of attribution.

(1) G.H.Joyce: Principles of Natural Theology, pp.256-7. (quoted by Professor Patterson, p.255.)

(2) See Anderson: The Bond of Being, p.266: "... St. Thomas clearly distinguishes between knowing a thing quidditatively, that is, knowing its definitive essence (knowledge quid est) and having quidditative knowledge of it. Any knowledge that we have of a thing is quidditative knowledge; it is, so far, knowledge of what that thing is. Thus everything short of knowledge of a thing's definitive essence falls within knowledge quia est - knowledge of the thing's existence and everything else that can be known about it, short of knowing its essence as it is in Itself".

(3) 1. Dist. XLX. Q.5. Art, 2.

In the analogy of inequality, the concept of the analogated perfection is univocal, even though its analogical applications at different levels of being results in metaphysical equivocity. This is also definable as an analogy of generic predication where the genus is logically but not physically or absolutely one, as for example where body, a logically univocal concept, is applied at various levels of reality, to a physical thing and to an immaterial form, with resulting equivocity. The only analogy present there is in the mode of realisation of the common univocal generic character.

The second type of analogy, analogy of attribution, is by itself inadequate, but when it

"is mingled with an analogy of proper proportionality... it appears to give a firm foundation for metaphysical demonstration". (1)

An analogy of attribution holds when a quality or character existing in only one thing is referred or attributed by the mind to others because of some causal relationship between them.

The five proofs which are meant to demonstrate the existence of God are meaningful only because they predicate qualities of God's essence. It is in his doctrine of analogy that Aquinas

(1) Scripta Philosophica: De Nominum Analogia De Conceptu Entis
(Ed. P.N. Zammit) referred to by Phelan: St. Thomas and Analogy, p.36.

comes closest to admitting the possibility of this positive but limited knowledge of God, which is in fact the basis of the knowledge of God's existence and essence. The five proofs and the doctrine of analogy are based, indeed, on the belief that it is permissible to argue from creation to the Creator.⁽¹⁾

The doctrine of analogy assumes that the five proofs are sufficient proof of God's existence. However, the five proofs themselves assume the sufficiency of the principle of analogy, which is involved in Aquinas's whole concept of cause and effect, because for him the principle of causality means that God is the sufficient reason for the existence of the world, and the possibility of arguing from creation to Creator is based on the analogy between cause and effect in nature and the Cause and effect which are Creator and creation.⁽²⁾ There is, however, considerable controversy among prominent scholars on the issue of the relationship between the five proofs and analogy.

Phelan states that it is by means of the analogy of proper proportionality that one can demonstrate the existence of God. He also considers it legitimate to think of God, indeed thereby to prove God, as the prime analogue in analogy of attribution.

(1) All objections to the idea that words used of God and man are equivocal are answered by the statement that it is possible to argue from creation to Creator. See Con. Gen. ch.33.

(2) See Garrigou Lagrange: God; His Existence and His Nature, vol.1. pp.224-7, and Dorothy Emmet: Nature of Metaphysical Thinking.

This is questionable, since in the proofs of God's existence, we argue from existing things back to God, and do not start from the prime analogue, whereas in the analogy of attribution we start from that which has real being and apply it to other things.

He states that by reason of the analogy of being in be - ing it is possible to demonstrate the existence of God, not, indeed merely as the prime analogue in analogy of attribution, but as the Cause (analogically understood according to analogy of proper proportionality) of the being of all that exists. For the very notion of cause is itself an analogical notion and any demonstration of the existence of the Cause of being, although it may virtually contain an analogy of attribution, derives its probative force from the likeness of proportions which must exist between things which are only by participation and Being which is in its own right.' (1)

Mascall admits that the doctrine of analogy does not merely give us further proof about God once His existence has been proved, but explains how it is that any discussion about God has been possible at all. (2) And yet he maintains that the question of analogy does not occur at all in the mere proof of God's existence, and that only after we have, presumably by the principle of sufficient reason, proved the necessity of a self-existent Being do we understand that no predicate can be attributed to finite and self-existent being univocally.

He thinks that the God whose existence is proved would have no recognisable meaning for human

(1) St. Thomas and Analogy, p.41.

(2) Mascall: Existence, p. 2.

beings unless already understood analogically.

Mascall gives the positions of Penido, Gilson and Maritain. Penido suggests that analogy relates to essence rather than to existence and claims that it is possible to arrive at the proof of God's existence without explicit recourse to analogy, and yet that such knowledge is analogical. The proofs of God are 'analogical realities', otherwise they would prove nothing. But they do not fall under the jurisdiction of the method of analogy, as theology employs it.⁽¹⁾ He thinks it is important to distinguish without separating or opposing, the problem of analogical knowledge and the metaphysical problem of analogy. This is presumably a logical distinction. The former is legitimately employed in proving God's existence but only after we have established the proof can we 'approach the latter in its fulness'. Analogy depends on the five proofs. 'Analogy begins at the precise point where the rational demonstration ends.'

Mascall understand Penido's distinction to mean that while the act of God's existence can be affirmed without any use of analogy, His essence, His mode of existing, can only be affirmed with the use of analogy.

Penido repeats the assertion that no use of analogy is

(1) Rôle de l'Analogie, (quoted by Mascall, pp.95-6.)

necessary in the mere demonstration of the existence of God, which has been proved, before the use of analogy, to be a self-subsistent existence.⁽¹⁾ But elsewhere in dealing with Descoq's argument that the analogy of proportionality is not the basic analogy since a relation of proportion must be established first,⁽²⁾ he concedes that proportional analogy is not primary, since the analogy of attribution has first to establish the existence of God. He appears to make this identical with causality, or at least he acknowledges that the causality used in the proofs is analogical.

Gilson's position is different. He thinks that true analogy is needed to allow us to affirm the Divine existence, to define Being in the very act of proving it. As Mascall adds, 'The great problem for a radically transcendent theism is how to keep God, as it were, from slipping out of our grasp at the moment in which we affirm His existence.' Gilson thinks that affirmation of the existence of God must include some meaning of the word God, which can only be supplied by analogy.⁽³⁾

Maritain is quoted by Mascall as holding the same position, and in this following John of St Thomas. He claims that when we argue from created beings to the existence of an Uncreated Cause we are using analogy of strict proportionality, even if unconsciously.

(1) *Rde d'Analogie*, p.136 ff. (quoted by Mascall, p.41.)

(2) *Rde d'Analogie*, p.146ff. (quoted by Mascall, p.115.)

(3) Mascall, pp.116-7. (*Le Thomisme* Part 1. ch.V. sec.11. Sec.Ed.)

For the reasoning we use implies that the notion of cause is analogical. Also by naming the First Cause Being, we are implying its analogy with the being which is the starting point of our demonstration. This causality may result in an analogy of attribution but the latter is not used to establish the existence of God.

Anderson discusses the relationship of the principle of analogy to the five proofs which are, he reckons, thoroughly analogical in character, as any proof of God's existence must be.⁽¹⁾ That is why a logical attack on the proofs is false, because the demonstration of God's existence is metaphysical and not logical.

Logically the proofs do not demonstrate God's or any other existence, in metaphysics the existence of something is however inferred from the existence of something else and all metaphysical terms are logical and transcendental.

He particularly investigates the role of analogy of attribution in the demonstration of God's existence, and states that His existence must be demonstrated before His nature can be explored. He further states, quoting Penido, that it is possible to arrive at God's existence without having recourse to analogy explicitly,⁽²⁾

(1) The Bond of Being. pp.156-63.

(2) "It is analogy of proper proportionality which alone makes possible any human conceptual knowledge of God; although it is possible to know many things about God without explicit recourse to the principle, or even without being aware of its existence. But nothing can be known of God - nothing can be attributed to Him truly - except through proportionality." (-The Bond of Being, p.253.)

and himself claims that analogy of attribution can only be used when the prime analogate, in this case God, has been proved to exist. He would therefore appear to disagree with Penido who regards analogy of attribution as being used in the proofs. Also Penido has labelled the proofs as 'rational' which suggest perhaps that they are logical rather than metaphysical.

Anderson repeats that it is possible to have a 'certain and sound' knowledge of the existence of God without referring at all to the principle of analogy, 'without any explicit use of this principle or even any explicit knowledge of it'.⁽²⁾ But he obviously acknowledges that analogy is used implicitly. For he states that the very reasoning used in inferring the existence of God from created things involves true analogical notion of cause, and that this is analogical according to analogy of proper proportionality, and not according to analogy of attribution.⁽²⁾

But in answering the objection that we cannot discover an unknown attribute of God by relating it to God's existence since this too is equally unknown, created being being so unknowably different from Uncreated Being, he answers that the latter is not unknown since analogy is already explicitly present in the demonstration of God's existence.⁽³⁾ This would mean that

(1) Ibid., p.161.

(2) Ibid., pp.161-2.

(3) "Of course, the fourth term of our proportion is already analogical; analogy is already explicitly present in the demonstration of God's existence." (The Bond of Being, p.289)

the attribute is also not unknown. And it would suggest that for Anderson analogy of attribution is sufficient to demonstrate God's nature, and analogy of proper proportionality to prove his existence. He therefore seems quite opposed to Penido, who regards the analogy of attribution as involved in the demonstration of God's existence and the analogy of proportionality as used for discovering God's nature.

In answering the further objection that this would be basing analogy on analogy and arguing in a circle, he argues that the existence of God is based on the simple initial affirmation that the existence of any limited being points to the existence of some single, unlimited Being, into which analogy 'does not enter at all, at least not explicitly.' (1) And since all the derivative analogates rest on this affirmation, there is no question of circular reasoning.

Yet in the next sentence he suggests that all metaphysical thinking is analogical through and through:

"Of course it does not follow that theological argument moves in a vicious circle because the fourth term of our model proportion is already analogical. All metaphysical thought is analogical from the outset; so this alleged difficulty is not peculiar to theology. Metaphysical arguments are in fact all based on analogy, on the analogy of being. No other basis is possible; for being is analogical in itself." (2)

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- (1) The Bond of Being, p.290. Such a statement appears precarious. Analogy needs to be explicit if it is to establish proof.
 (2) The Bond of Being, p.290.

He deals twice with the objection that analogy of proportionality is useless because God's existence and essence are one, and therefore there can be no proportion in Him with which to compare the proportion in man. His answer is that the distinction between God and His attribute though not existing in God is a logical and therefore a real one. However, in view of his previous distinction between the logical and the metaphysical, he cannot claim that the distinction is analogical or metaphysical and therefore a basis for analogical reasoning. For all analogical reasoning, therefore, there is no distinction between the essence and existence of God, so that His existence must be qualified by His nature at the same time as His nature by His existence. Therefore if the existence of God is known analogically, His nature must be so known also. So there is no 'x' which is unknown. Yet Anderson states 'What 'x' is is of course unknown.' (1) If 'x' is unknown so is the existence of God with which it is analogically and metaphysically one.

It would seem, therefore, that one of the weaknesses of identifying the essence and existence of God must be that at the moment of affirming His existence, whatever method of reasoning is used, His nature is also inevitably, if unconsciously, affirmed. It is therefore illogical to prove analogy after God's existence

(1) Ibid. p.286.

has been found, for analogy has been assumed all the time, In the affirmation 'God exists', God must be allowed more than mere anonymity. It is not possible to affirm the existence of something by a principle of logic and then to identify it by a principle of analogy. Analogy is therefore, assumed in the proof of God's existence.

If the existence of God must be established before the doctrine of degrees of being, the doctrine of analogy, and the analogical method can be established as legitimate it would seem unjustifiable to prove the legitimacy of analogy on the basis of God's existence. Therefore the proofs of God's essence and existence are unsound.

The relationship between analogy and the principle of sufficient reason is important. The rule that because everything within our experience must have a cause therefore something unknown must not have a cause does certainly not seem logical. Also, since in relation to God both cause and effect in nature become effect, it would appear that the 'analogy' between cause in creation and cause in God might equally be termed equivocity. In relation to God, in their identical ontological dependence, created 'cause' and 'effect' are simultaneous, ambiguous, and synonomous.

The difference which Anderson draws between logical and metaphysical proof is at least doubtful. Metaphysical inference may lead to the truth that it is impossible to deny God's existence, but not even logic, let alone metaphysics, could deduce that this proves His existence absolutely.

Aquinas assumes that the causal link between Creator and creation implies similarity. This can be but a 'one-way' similarity, however, for although the creation can be said to be similar to the Creator, it is improper to say that the Creator is similar to any of His creatures. This is because God the Creator, being perfect, self-sufficient and wholly independent, has only a logical relation⁽¹⁾ to the creation. A real relation would involve dependence. It would seem, therefore, that whereas causal relations in nature are reciprocal in similarity, causal relations between God and the creation are not.

Since analogy exists in a relationship between God and man, and since there is no real relationship in the sense of metaphysical and analogical, but only a logical one, from God to man, it is difficult to see how there can be any analogy. Even if the proportion of God's nature to His existence be 'related' to man, this also must either be part of God, essential to His essence, and therefore unrelatable to man, or else it must remain simply a

(1) S.T.I. Q.13. Art. 7.

logical proportion having no analogical value. It is difficult to see how analogy can be possible either way. There seems to be a special difficulty in the fact that the relation of identity between God's essence and His existence is often considered as the very metaphysical centre of God's Being. Yet if it be, as Anderson thinks, only a logical relation it can have no such value.

Anderson only allows analogy of attribution in actually comparing God's nature with that of creatures, and yet he holds that the analogy of proper proportionality is the only true analogy.

But if this relation of identity is metaphysically the essential nature of God then it is God, and He is being directly compared with man in the analogy of proper proportionality.

The analogy of proper proportionality is seen by Phelan, who follows Cajetan, to exist between beings or things rather than between levels of being as such. The occasion of analogy is thus the individuality and diversity of things. This diversity is a result of the differences of proportion between existence and essence and between potentiality and actuality, in them.

"Diversity results from the manifold limitations of act by potency" (1)

(1) St Thomas and Analogy, p.40.

Unity exists in that all things exist, but some things are said to exist more than others, in the sense that some have a greater degree of independence and of being than others. This depends on the proportion of potentiality to actuality in each thing, so that the unity of 'beings in being' is understood as analogical and not univocal. (1)

Analogy between things would seem to be more difficult to grasp than analogy between different levels of being, if the latter themselves can be accepted. Things include many levels of being, and there it is difficult to see how a transcendental can be applied to a thing without the analogy losing something of the diversity of mode which makes it analogy. This distinction raises the question of whether degree of beingness or quiddity is the more ontologically ultimate, and what is the relation between them. Res is itself a transcendental.

(1) "In analogicals it is not diverse realities which fall under consideration but diverse modes of existence of the self-same reality." (St. Thomas and Analogy, p.41.)

Not only the relation between God and the world, but their separation and the avoidance of pantheism, are dependent upon the doctrine of analogy in relation to the teaching on Act and Potentiality.⁽¹⁾ Being is to be grasped under these two aspects.

Aquinas saw in the created world a reflection of the division between God, Who is Pure Act, and creation, which is a mixture of being and becoming, of act and potentiality. Inasmuch as a created thing realises its potentiality it reaches its fulness of being and 'participates' in Being, it becomes analogous to Being which is God, Unity and Goodness. Allthings have a share in the Being of God in proportion to the extent to which they are themselves actual beings. When a thing reaches its actuality, when it participates in the divine reality it can communicate and give itself, it reaches its full goodness.

God gives to everything its form and potentiality. The form of a thing brings it to its fullest realisation of being, but to fulfil its individuality everything has to fit into the law of unity of the whole, which Aquinas believed to be achieved by the

(1) Analogie und Akt-Potenzlehre bestimmen das Verhältnis von Gott und Welt. "Das Axiom der Analogia entis, in dem wir die Grundlage der thomistischen Philosophie erblicken, ermöglicht nun, die Hauptsätze der aristotelischen Metaphysik zu übernehmen, ohne doch (wenigstens scheinbar) die Unterscheidung von Schöpfer und Geschöpf preisgeben zu müssen. Unter diesen Hauptsätzen ist an erster Stelle die Lehre von Akt und Potenz, die "Hauptregel" der aristotelischen Metaphysik, zu nennen. (*Ibid.*, p.439)

natural hierarchical ordering of everything. Every thing has a natural tendency towards its own fulfilment of being, and this is its law of nature; in man the natural law is the natural inclination towards rationality, which is identical with the form of his being. The perfect idea of everything is in God, and it is towards the fulfilment of this that each thing strives.

Aquinas's conception of matter and form on which his teaching on act and potentiality largely hangs is by no means free from difficulties.

Aquinas conceived of matter as pure potentiality,⁽¹⁾ even though as such it cannot have being. God has to will it, and everything God wills has to imitate in some way the divine essence, who is pure Being. There is here an absolute contradiction. A complete gulf is fixed between God and matter which allows no analogical bridge. If God is the cause of the universe He must be the cause of all matter in it. And since there was always for Aquinas some likeness between cause and effect, there must be some likeness between God and matter. It is impossible to conceive of God as the cause of matter and yet wholly diverse from it

(1) Con. Gen. lib.1. cap.17.

without giving up the theory that there must be similarity between cause and effect, which theory is central to Aquinas's doctrine of analogy.

Aristotle regarded primary matter not as an existing element in concrete things but as an abstraction: Professor Patterson emphasises that this was not so, however, for Aquinas. And he concludes that if matter could be regarded as -

"... a mere abstraction, a 'logical construct', a theoretical terminus assigned by the intellect to the descending series of degrees of being, the contradiction which faces us would perchance disappear. Tempting,... it can be accomplished only by flying in the face of Aquinas's own utterances on the subject. 'In all corruption, when the actual has been removed the potential remains; for a thing is not corrupted into complete non-being just as a thing is not generated out of complete non-being'."(1)

Not only matter has potentiality, however. Aquinas regarded an angel as an entirely immaterial, spiritual being.(2) But he regarded it as having potentiality; therefore if matter is pure potentiality it obviously needs some characteristic which will distinguish it from potentiality in general. Yet no such characteristic was given it by Aquinas, and indeed if such does exist, matter can hardly be described as pure potentiality. It

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- (1) The Conception of God in the Philosophy of Aquinas, p.128. Professor Patterson refers to Con. Gen. lib.11.cap.55 and Phys. lib.1. cap.1X. lect. 15.
- (2) De Ente et Essentia, cap. 1V; S.T. 1.Q.3. Art.3.

seems that here Aquinas's distinction between form and matter as having any metaphysical reality, breaks down.

It is also difficult to maintain that God is Pure Act. Aquinas could not admit that God had of necessity to will the universe for this would result in pantheism. But it is difficult to see how he avoids at least the implication that the world does do something for God or help to fulfil some purpose in Him, which would involve His potentiality. Professor Patterson regards Aquinas's admission that 'God's love of His own perfection leads him to will that it be imitated by the creatures in a plurality of modes'⁽¹⁾ as implying a further admission that the universe does contribute something to the divine perfection.

"Whatever motive be attributed to the Deity,... the universe must serve some purpose, it must fill some need in the divine nature. It cannot be said that Aquinas has discovered any way of avoiding this unpalatable but unescapable conclusion." (2)

Also, since created things were not created eternally, it might be said that before the creation of the world this act was only a potentiality in God even though the creative idea was eternally present with Him. It is indeed difficult to understand

(1) Comp. Theol. 1. cap. 95.

(2) The Conception of God in the Philosophy of Aquinas, p.344.

why potentiality in some of its aspects should be regarded as an imperfection. Infinity itself is from a human point of view an unfinished concept of an unfinished eternity, and although this may be so because the idea leaves the mind behind, this may also explain any apparent contradiction between the ideas of perfection and potentiality in God.

It is only because of the identification for Aquinas of ontological reality with moral goodness, that a lack of quantitative fulfilment is a lack of perfection; such identities seem most questionable.

Everything attains its perfection through its form, and the form of a thing gives it its identity, and brings it to its fulness of actuality. Form also is potential in relation to its existence through participation in which it becomes through its union with materia signata a concrete object in the world of nature.⁽¹⁾ Thus it is that it would be possible to retain the immateriality of angels only at the price of admitting that there is a distinction between potentiality and matter.

(1)"... form does not in itself possess being, but... through it some composite substance exists, and... accordingly it is not made at all - in the proper sense of the word - but... it begins to be by reason of the passage of the composite substance from potentiality to actuality." (Con. Gen. lib.iii. cap.69.)

There is a further problem that needs clarifying.

Aquinas attacked the conception of a plurality of substantial forms and declared that any concrete individual is constituted by the union of matter with one, and only one, form.⁽¹⁾ But this does not explain how one thing changes into another, or how the form of the acorn changes into the form of the oak-tree. If matter is an abstraction there is nothing that can receive the determination of the first form; if matter is a form,⁽²⁾ this does not help the problem. As Mgr. Knox points out, even with our advanced physical knowledge we still have no further knowledge of the reality of form and matter. And our sophisticated scientists report that

' "... a kind of anarchy seems to reign in the very heart of nature; the law of averages comes in, no doubt, to redress the balance; but to assert that there are any other laws in nature is to go beyond our present evidence. It looks very much as if indeterminacy were a fact." (3)

It is more realistic, therefore to think of every simple substance as having a simple potentiality, the potentiality of essence in relation to being. The distinction between form

(1) Philip Wicksteed; Dante ad Aquinas. pp.61-2.

(2) Ronald Knox. God and the Atom. pp.35-6.

(3) Ibid., pp.47-8.

and matter therefore ceases to be a satisfactory basis for the division between act and potentiality, and it is therefore the same thing, the whole thing which is both potential and actual. The actuality of a thing is apparently its fulness of individuality, of thinghood, but this also has difficulties.

If the distinction between matter and form be left out, there is no metaphysical difference with reference to its individuality between a thing which is achieving and a thing which has achieved its individual distinctness; for each stage of development is equally essential to the identity of the thing. The being of any one thing, according to Aquinas is achieved when that thing reaches its climax rather than when it has developed and exhausted all its potentialities; this means that actuality can coincide with potentiality.

It is difficult to know at what moment one can place the fullness of being of a plant, for example. Certain parts function at different times, yet each part is equally essential. A plant is realising itself at various stages of its history; the stem is achieving its end while it is growing and bearing the bud upwards just as much as when it is supporting the full flower or fruit. The bed of petals protects the seeds when it is

tightly furled as well as attracting pollenisers when wide open; is potentiality fully actualised when the petals are widest or when the fruit is heavy and ripe or when the wind lifts away the seeds to independence and separates the plant's achievement from itself? An animal might be thought of as realising its purpose when reproducing itself, or when it has achieved the education of its young; or only when it has fulfilled and lived its whole life might it be said to have realised all its potentialities, so that its completeness if not its zenith is at the moment before death. If recognisable fulness of individuality be the criterion of actuality, however, this may have continued throughout all the phases, and is equally vital at each one of them.

Decay, degeneration and death can beset a thing while it is still recognisable and in a sense bring new fulfilment. As it changes into humus the plant only realises further potentialities even though 'it' ceases to be a plant and continues to exist under another name. Matter thus becomes eternal, form temporary.

Certainly, even if physical development or reproduction be the zenith of perfection for plants and animals it is not so for man who can be spiritually creative at any age, and who can accumulate wisdom with his years.

It is the vocation of some things essentially to become, to be mobile, to express themselves in activity or to be available as potentialities for others. In any case the real moment of fulfilment of anything is when it is contributing most appropriately to the good of the whole. It is the work of the wind to travel rather than to arrive, but in an extremity of windiness it might destroy more than it creates. It is the essence of living things to grow, develop and change.

If fulness of individuality and identity is actuality and fulness of being for Aquinas — and this would seem to follow from the conclusion that potentiality and actuality can not be referred to matter and form, but to the relation of essence to existence, it is difficult to see how the actual has more being than the potential, for the essence of a thing is its individuality and identity. A thing is essentially itself at all stages and each stage is as essential to the thing as any other.

It is doubtful, therefore, whether human reason can reach sure knowledge of God's existence and essence. And if it cannot, it is difficult to think conscious human participation in that Eternal Law which is God possible. Yet even if Aquinas's account of human understanding of God as a wholly rational process were accepted, his identification of God with the Eternal Law and his assumption that the latter is wholly effective in moral guidance lead to further difficulties.

Eternal Law, he said, is the system of divine government and is itself God. This particular aspect of God, was, according to Aquinas's thinking, only logical and not real, for in reality God the Creator and God the Conserver are inseparable.⁽¹⁾ Nevertheless, he thought it logically justifiable to separate the Eternal Law as that fulfilling the particular function of controlling all the activities within any creature. The organisation of these activities he thought obeys a law, whereas the divine plan of creation has the nature of a pattern or idea.⁽²⁾ The Eternal Law is the work of divine reason, but as God is without ratiocinative powers,⁽³⁾ which involve the knowing of one thing through another,

(1) "Not only the beginning of the world, but also the entire sequence of events which fills the time series, is willed by the same single and supra-temporal act. Creation is thus separable from conservation only in thought; actually the two are identical. The relation of the world to God is one of dependence. When we refer to the beginning of that dependence we speak of creation; when we have in mind its continuance we use the term conservation!" (The Conception of God in the Philosophy of St. Thomas Aquinas, p.460. Professor Patterson refers to Les grands thèses de la philosophie thomiste, pp.89-90 S.Thomas d'Aquin, tome 1.pp.296ff.)

(2) S.T.1.11.Q.93.Art.1,3.

(3) Con.Gen.lib 1. cap.57

the Eternal Law, like God, works through intuition. Aquinas did not here relate logically the plan of divine government to the plan of creation or to any laws which might be said to fulfil such a plan. This plan, being eternal, must have been in the mind of God from eternity, and it must, therefore, have accompanied creation without achieving it.

It is indeed difficult even logically to separate such government from the creation of individual things, though it might be so separated from the creation of some undifferentiated stuff, since time was created with creation, and things evolve in time, and the creation of things or beings is evolutionary. The divine government of things aims at their full perfection of being. Such fulfilment, however, is only the completion of their creation if creation has any further meaning than that first and eternal intuition of God which comprehends and controls the whole future of the whole universe. It is only in the latter sense that creation can be regarded as foreordained and finished from all eternity. But if it is understood to include the bringing into being of identifiable things or creatures it cannot halt midway or even at the germ of the embryos of things, however much these might contain the concentrated and energetic plan of their own fulfilment. It must in one sense continue, by means of

change and disintegration, to the end of all existence. It is hardly possible to separate the law of creation which begins things from a law of development which completes them. The reality of many things, indeed, lies in activity, and that of others lies in their contribution to the whole.

The Eternal Law, therefore, must be full of the spirit and originality of creation. Not only was it with God from eternity and identifiable with His nature; it is endowed with the spirit of creation and found within the necessities of every created thing. It is difficult to see then how the Eternal Law can be rational. For the essential miracle of creation is that it creates the universe out of nothing. And in opposition to this man's reasoning takes a firm stand on the impregnable principle that a thing cannot both be and not be. Yet for all human reasoning, even that of the intellectus, it would appear that inasmuch as by a thing is meant that which has identifiability, there must have been at the beginning of creation an infinitesimal fraction of a second, too quick for the slow sensitivity of human perception cognition or imagination to grasp let alone to separate, when Being and non-being were so much one that within the possibilities of human understanding they were simultaneous. If creation was created with time it must have been created in time.

And the notion of being as created out of non-being is even more perplexing to human reason than the conception of their simultaneity. If it be allowed that everything has some kind of reality in the mind of God even before it be created, this raises difficulties in relation to the divine nature. If the world was the result of the divine intellect God, presumably, was aware of its varying degrees of being before He created it; but before creation there was nothing that God could know but His own essence, which could not share the plurality of created things, nor did this exist outside Him.⁽¹⁾ Similarly, there is an absolute contradiction in the idea that what is future does not exist but since God conceives it it must exist. Professor Patterson suggests that a possible solution might be to regard time as at least parti-ally unreal and the future as real.⁽²⁾

This, however, would make the participation of the natural law in the eternal law difficult. In practical affairs it is not reasonable to take such a relative view of time seriously. Aquinas himself does not do so. Nor is it any easier to reconcile the metaphysical understanding of God with laws of human thought. As Professor Patterson writes, the idea that

"... qualities which at a lower level of being are distinct and separate, should fuse at a higher level into an absolute

(1) The Conception of God in the Philosophy of St. Thomas Aquinas, pp.298 - 300; Con Gen. lib.1. cap.50
 (2) p.443.

identity seems to involve a direct denial of the validity of the laws of thought..." (1)

The explanation that such a situation has to be grasped intuitively (2) rules out the use of reason and Professor Patterson concludes that the only way in which it can be understood must be in the light of the scriptural injunction - 'He that is able to receive it, let him receive it.'

The Eternal Law is not, moreover, successful in achieving universal order. For although God, through secondary causes (3) rules every detail of the universe and would, therefore, seem to be responsible for any deviation from the norm, Aquinas used such deflections only as a proof of the contrasting perfection of God's perfect order. (4) He nonetheless seemed to allow that God's rule is not always perfect when he says that divine intelligence usually moves physical bodies for the best. (5) God is active everywhere and in all things. It would seem, therefore, that His business should be to correct rather than to maintain irregularities. He is allowed to produce particular effects directly without the intervention of secondary causes, although Aquinas, apparently, would make secondary causes and not God responsible for anything evil. (6)

(1) The Conception of God in the Philosophy of St. Thomas Aquinas, p.300.

(2) As a contemporary Neoscholastic writer puts it "seized by an experience or intellectual intuition."

(3) Con.Gen. lib.3. cap.77

(4) Con Gen. lib.3. cap.64; lib.4. cap. 71

(5) Con Gen. lib.3. cap.64. De Verit. q.5: a. 2.c.

(6) Con Gen. lib.4. cap.71.

Evil was purely negative to Aquinas, and identical with lack of being. Although a defect in a secondary cause is not the same thing as individuality, Aquinas did seek to justify evil on the ground that varying degrees of goodness -- lack of goodness amounting to lack of being -- help to produce the multiplicity and individuality of things and help some things to come nearer to God than others. In this he seemed to identify ontological with moral good and evil and at the same time to identify ontological evil, which is the lack of perfect goodness or being, with moral goodness, since it is morally good for each thing to fulfil its individuality and this individuality is partly dependent on lack of being, which is evil. It appears that Aquinas ought either to give up his identification of being and goodness, or make a distinction between ontological and moral goodness, or his justification of evil on this ground.

As the beauty of the universe is made up of multiplicity and individuality, it is not easy to believe that they can be anything but good, since the good of each particular contributes to the good of the whole. Created things imitate divine goodness inasmuch as they themselves are good. The greatest good among created things is the good order of the universe, which is especially willed and intended by God.⁽¹⁾ The goodness of the whole

(1) Con. Gen. lib. 3. cap. 64.

is ultimately the good of God in whom Beauty and Goodness are synonymous. In the universe, however, order consists of the right management of particulars, so that for Aquinas the beauty of the universe would seem to consist of the orderly arrangement of good and evil.

Certainly for Aquinas justice requires that creatures should act according to their natures and the fulfilment of such natures is wholly good. But although God implants a good intention towards such fulfilment in all things the conflicts to which this may lead are evil. This evil he justified as calling for-th patience and vindictive justice.⁽¹⁾ Fulfilment of the nature of a thing, therefore, is not in itself necessarily good, since it may have to be sacrificed for the sake of the whole. Yet its frustration must in fact detract from the good of the whole in one sense, according to the identification of good and being. Nor does the fact that good may come from evil mean that it always does. Altogether Aquinas seems to come near to making good and evil exchangeable terms, for he held that where good and evil are set side by side the good is better known and more desired, and that evil is a proof of God's existence. Evil can hardly be negative if it has such a positive effect, and if ontological evil be allowed to produce spiritual

(1) Con Gen. lib.4. cap.71.

good, the latter is hardly identifiable with ontological good. This evil which fits so neatly into the scheme of things is after all a deflection and reflects the failure of an effect to imitate its cause.

All such confusions as these about moral evil, defects in secondary causes and lack of perfect being takeplace in the universe regarded as wholly under the providence of the Eternal Law, and not merely on the human plane, where part of the responsibility for confusion must lie with the fact that free-will is at play. Aquinas was not of course dismayed by the sacrifice of individual good to the good of the whole. He seems to have been unaware that when parts of a whole are imperfect, the whole to which they belong must be likewise less than perfect and therefore less than 'whole.' Aquinas, however, believed that God could have made a better universe if He had wished.

"The willingness of St Thomas to acquiesce in the sacrifice of individual good to the good of the whole is indeed striking. But what is the good of the whole, and for whom is it good? God undoubtedly is the being for whom the universe is good, and its goodness seems to be of an aesthetic character. The notion that evil is a necessary element in the harmony and beauty of the universe is a familiar one both in religion and philosophy, repugnant as it is sure to seem to the minds of many. Yet a God who could forgo creating a better universe to create a worse one - and, as we have

seen, this is what Aquinas believed to have actually occurred -- would doubtless be capable of finding pleasure in the contemplation of evil as well as of good." (1)

Providence, which orders things with respect to their ends, is even more closely identified with that Eternal Law which is the shadow of natural law, for it is connected with the practical cognition of God and would be imperfect if it did not extend to particulars. (2) But the particular virtues of active human life, which are related to material goods and their possession and to politics, cannot be predicated of God. (3) As Aquinas, however, held that the order of the universe must be caused by one and not a plurality of agents, it would appear that God must possess the virtue needed to guide such human affairs.

Considering the wealth of confusion, therefore, the Eternal Law which is God must seem beyond the reach of human reason. Father Coplestone notes that Aquinas believed that God, as a perfectly self-luminous and personal being, must have used His intelligence in deciding to create the particular finite beings rather than any of the other possibilities open to Him. On the other hand, Aquinas also believed that the creative act, as it exists in God, is identical with the divine nature itself, which is

(1) The Conception of God in the Philosophy of St. Thomas Aquinas, p.470

(2) Con. Gen. lib.3. cap.75.

(3) Con. Gen. lib. 1. cap.93. S.T.1.1.Q.XXI.

essentially immutable. Similarly, he was convinced both that the creative act as it is in God is necessarily eternal and that the external effect of this act is not eternal. Aquinas allowed that this past point had not been proved by philosophers but he held that they had not proved the contrary and that theology had proved its truth no matter what philosophers might make of it. He held, therefore, that all these propositions could be asserted without contradiction.

Father Coplestone concludes therefore, that there is a point in the analysis of creative activity beyond which human reason cannot go, and adds that the business of Christian thinkers is not to eliminate all mystery but to shew clearly where the mystery lies.⁽¹⁾

It is clear enough that the mystery lies at the heart of the divine creative reason itself, for creation is an inexplicable miracle, and reason, by straining to comprehend it, finds itself thrust back, frustrated and contradicted by its own limitations. And since the Eternal Law is part of the divine creativity it too must be largely incomprehensible to man both in itself and in its human relevance. There is not a perfect understanding between divine and human reason.

(1) Aquinas, pp.139-140

When the nature of the Eternal Law is sought in not merely logical terms but in the world of particular things, the human mind must be still more baffled.

It is hard to believe that the world understood from a human perspective shews everywhere and always an all-embracing and detailed perfection of all things co-operating in one harmony in which there is no room for omission, mistake or evil. To 'consider the heavens' is to know that our perspective is limited indeed. If one tries to conceive of the deep power which holds within its buoyant strength billions of whirling suns the apparent mistake of a shooting star might seem like a little extra brilliance, the pretty excrescence of an unwanted world breaking into more brilliant light. There is a generosity that adds up to waste, that seems like Omnipotence at play. Creation is abundant beyond the limits set by any purpose or need until it is but a waste of beauty disintegrating into greater light with an enthusiasm only for originality. If one compares this overwhelming wonder with the things that worry our sense of perfection in nearer nature, these latter may seem dwarfed into irrelevance, trivial errors magnified into evil only by our microscopic vision. It should perhaps be enough for us that God manages the stars. Yet we are so zealous for His perfection or for our own idea of it, that it is easy to be sceptical as we probe

deeper into the detail of our inch of the universe. It is amongst living things that difficulties and disharmonies are most easily discovered, yet it is living things that most visibly express the teleological forms and the Eternal Law as understood by Aquinas.

The inanimate world might appear to have reached the highest development of its potentialities and its fulness of being. Any irregularities in it might appear as physical rather than moral problems. But among things in full vitality there is often disorder and distress, and in spheres beyond our control suffering and cruelty which, if we had responsibility for them we should call immoral, evil or disharmonious. An earthquake which disturbs or scars a landscape can be regarded as a natural adjustment of impersonal forces, but when it unconsciously kills or injures it appears that the laws of relationship between living and non-living things have not yet achieved infallible perfection. Indeed when the two meet there is danger for the living, with whom the burden of adaptability remains.

There is also so much stress and conflict among living things, that it is difficult to believe that outside man the world is organised by utterly perfect laws, whatever such might be. For according to this conception, there could be no possibility of freaks, not one leaf should be out of place, no flaw could be allowed

to crack the perfection of the whole creation, except for the amoral incompleteness of immaturity and growth. For the whole art of the Eternal Law must be to bring with extraordinary care, every individual thing to the climax of its perfection in such a way that this perfection is fitted to and contributes to the wealth and harmony of all things.

In fact life murders itself. Living things continually kill each other, and though this may not be immoral from some deep religious viewpoint one could only adapt this to Aquinas's theories by suggesting that some weak plants were never intended to grow into healthy ones but were a destined sacrifice to the stronger; that some buds werenot meant to flower but at an appropriate moment to wither and decay into humus for the richer brilliance of others; that a certain lamb was never meant to become a sheep but was created as meat for wolves; that some stones should relinquish their identity by disintegrating into nutritious dust. The very zest of creation, the frantic energy of the eternal law itself, cause suffering and death. (1)

(1) W. Macneile Dixon: The Human Situation, p.101. "It is the fecundity of nature against which our moralists should direct their indignation. Nature is the enemy. I have read that the bodies of over 30,000 infants are picked up every year in the streets of Shanghai. Until the reformers have found some means of restraining that facundity, of reducing Nature's vast population, these living creatures can hardly be expected to lay aside their weapons, whatever they are."

In man the problem is complicated by the partial separation within him of the power and form of the law which no longer, as in outer creation, inform each other. To some extent he is overwhelmed and shaped by the powers working unconsciously within and without him until he stands on a threshold where he belongs to both worlds, the world of inevitable nature and that of his own choice and making. To some extent he is conscious of an eternal law working within him and possessing him with its dynamic purpose. He is a blind and helpless victim and beneficiary of these forces and he has to acknowledge even his free will as an extension of something other than himself. He is continually carried along by life, he essentially is part of its mystery.

But at several points he is aware that the Eternal Law is not the great creative hand of life upon him. He realises that he is not thoroughly possessed by it and not secure within its confident dictatorship, but is, in a sense, decentralized. He is abandoned to the responsibility of self-direction. Whereas in the rest of creation the laws or forms of things are one with their own creative energy at some points in man they separate. He may have to search for a law to guide him or it may overshadow

him but as a powerless ideal. His feet are fastened to the earth, but such mental and spiritual freedom as is given him is as void of directions as is the sky.

The purpose which in the rest of the universe is charged with power, although it remains with him, does so as a powerless unfinished design which he can perhaps hardly trace in parts, but which he must realise, and colour and fill with detail, for many of the odds and ends of it are only suggestive incentives to his creativity.

He may be encouraged by such as hold Aquinas's position to think that he has been invited to co-operate with God, but he may also feel more like a child suddenly set at the wheel of a car amid dangerous traffic, knowing only that he must drive without disaster and that he lacks the knowledge and experience to do so.

Though this situation might obviously hinder harmony and bring about mistakes and misery, these are no more than what the Eternal Law had in store for man. Yet this is the opportunity for man's perfection and, according to Aquinas, natural law is man's guide. Natural law is that part of the Eternal Law which is capable of being understood and realised by him in his life. Indeed, Aquinas's doctrine of natural law has its dignity and authority because he placed it within the context of Eternal Law, which meant for him, God.

Professor Barth condemns the rational proofs of God as exhibiting 'humour and fragility',⁽¹⁾ and as worthy of serious consideration only as possible proofs of idols. To Professor Barth the proof of God as Creator has become visible in Christ alone.⁽²⁾ Such an attitude provokes a defence of Aquinas. The dedicated desire to discover and define God with all the powers of the mind, should not be treated with condescension. Aquinas is in touch with the age-long tradition of the relation of the human mind with the Unseen, and his faith in the affinity between the human mind and the Divine mind is, indeed, one aspect of Professor Barth's faith that the ultimate harmony between man and God is revealed in Christ. Ultimately, neither standpoint is rational.

Aquinas already 'knew' God, from tradition and revelation, before he began to prove Him. If he realised this he probably accepted that he was prejudiced only towards the truth. It was, however, this passionate conviction of God and of His Nature, which controlled his selection of certain facts and arguments, and helped him to assert conceptions such as the 'Simplicity of God' which are foreshortened to meaninglessness by the human mind, as dogmas rather than likelihoods. The principle of sufficient

(1) Dogmatic in Grundriss, pp. 37 -8

(2) Ibid., p.52.

reason is, like inductive reasoning, based on limited human experience, and leads to the idea of the likelihood of the absolute priority of God, rather than to utter certainty about Him. (1) Aquinas's proof is based on a circular argument. This is most clearly manifest in his use of the analogia entis to prove God, when such proof is needed to prove the legitimacy of the analogical method. This is a self-contained circle of hypotheses, which proves nothing more than the logical necessity of such interdependence. It does not prove God. The same criticism applies to the interdependence between the positive and negative aspects of God, and between His Essence and His Existence, Quid Est and Quia Est. The explanation in terms of knowing a thing quidditatively and quidditative knowledge of it is as unsatisfactory as the difference between analogical knowledge and knowledge of analogy. Aquinas asserted that all knowledge, perfect or imperfect, of the Essence of God is absolutely impossible to man, (2) but imperfect knowledge of His existence, which includes knowledge of His goodness, justice, wisdom and infinity, is possible. God either is or is not, and

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- (1) As Ezekiel in a more direct and personal meeting with God, would only describe the appearance of the likeness of the glory of the Lord. (Ezekiel 1.28.)
- (2) We have no guarantee that God as He is in Himself is not wholly other than how we imagine him to be, on the grounds of our imperfect knowledge. It is only such a humanly conceived being that we can hope to prove exists.

imperfect knowledge of His Existence should be described as probability rather than proof. It is only by admitting this 'quidditative' knowledge into the Quia Est, and that the Quid Est can remain unknowable; but this is unfortunate, since the Essence and Existence are identical, and this unknowability must qualify the Existence also. As far as the Essence is concerned, unknowability is the only characteristic the human mind knows of it.

When Professor Anderson agrees that logically the proofs are useless he means that the principle of sufficient reason is not a logical but a metaphysical principle. This is questionable. The assumption that metaphysics can contradict logic is untenable, yet such an assumption is implied in the distinction between logical proof and metaphysical proof. An enormous amount of Aquinas's arguments are purely logical, and if logic is inadequate, or if there is such disharmony between the logical and the metaphysical, this undermines their value.

Aquinas's thinking on the relation between God and creation is not flawless, in spite of its intense detail. He fails to prove absolutely that the universe does not add anything to God's perfection, and that there is, therefore, no potentiality in God.

At the same time in defining matter as pure potentiality he asserts a mystery. Such a definition does away with the possibility of any analogical relationship between God and matter. The ultimate relation between matter and form is equally mysterious, as form in itself has not being and has to be educed from that which has no actuality - and therefore no being. The distinction between act and potentiality is not parallel to that between form and matter, but to that between existence and essence, but essence is the actuality of form and matter. There appears to be a coincidence too between fulness of being or existence and fulness of individuality or essence. His dogmas about the Utter Simplicity of God make it difficult for God to have any significant connection with the creation.

Generally Aquinas's reasoning about God is so abstract that it is not difficult for it to remain aloof from the hard facts of human experience. His explanation of evil in predominantly ontological and negative terms is too easy. His relegation of the cause of evil to secondary causes while accepting the overruling responsibility of God is ambiguous. His identification of moral with ontological goodness or evil, and his justification of the latter on the ground that it makes for the individuality of things and accentuates the good, is doubtful.

It is only on the basis of analogy that the natural law can be thought of as participating in the eternal law.⁽¹⁾ The doctrine of analogy is, however, very doubtful on certain points, as is the understandability of the perfection of the Eternal Law. It is by no means clear to the human mind that there is perfect rationality or harmony in the creation outside it. And yet it is in the ordering of creation that Aquinas finds the greatest good of created things. It is the only guide and plan for human beings, yet Aquinas explicitly stated in spite of the fact that it is a law of government itself, that there is no pattern in the Eternal Law for human society and government.

Mutual destruction, killing, self-defence, the survival of the fittest seem rife amongst living things outside man. He might therefore quite reasonably understand this as a justification for similar behaviour on his own level.⁽²⁾ He might, on the other hand,

(1) S.T.1.11.Q.XC1. Art.2. Also see F.Flückiger; Geschichte des Naturrechtes, Vol.1.p.45. "... Ohne die Analogia proportionalitatis wird man diese Frage nicht klären, noch die berühmte impressio divina im Naturgesetze!" Quoted from Manser, Das Naturrecht in thomistischer Beleuchtung, 1944, S.77f.

(2) Victor White stresses that '... nature lives on death, on violence and destruction. If we repudiate that, we repudiate nature; and in repudiating nature, we repudiate God, the God of nature. We are also repudiating the God of the Scriptures who found the world he had made very good, if we say that we find a world existing on destruction very bad.' Therefore he reasons that we must not disapprove of 'Nature red in tooth and claw' for that might mean there is something wrong with our idea of God, and we must accept ourselves as carnivorous animals who may only be able to survive at times by killing others.' And he quotes T.S.Eliot:
 Men! Polish your teeth on rising and retiring;
 Women! Polish your fingernails;
 You polish the tooth of the dog and the talon of the cat.'
 (The Morality of War, p.4.)

understand himself as ~~a~~being gifted with the responsibility and purpose of employing his reason to introduce another type of conflict, one against destruction itself. He would have to some extent to stand outside the natural scheme of things, to change redeem and improve it. ⁽¹⁾ This, however, implies that man's morality

(1) Thomas Hardy and Albert Schweitzer eloquently express such an attitude:

IN A WOOD.
From "The Woodlanders."

Pale beech and pine so blue,
Set in one clay,
Bough to bough cannot you
Live out your day?
When the rains skim and skip,
Why mar sweet comradeship,
Blighting with poison-drip
Neighbourly spray?

Heart-halt and spirit-lame,
City opprest,
Unto this wood I came
As to a nest;
Dreaming that sylvan peace
Offered the harrowed ease -
Nature a soft release
From men's unrest.

But, having entered in,
Great growths and small
Show them to men akin -
Combatants all!
Sycamore shoulders oak,
Bines the slip sapling yoke,
Ivy-spun halters choke
Elms stout and tall.

Touches from ash, O wych,
Sting you like scorn!
You too, brave hollies, twitch
Sidelong from thorn.
Even the rank poplars bear
Lothly a rival's air,
Cankering a black despair
If overborne.

Since, then, no grace I find
Taught me of trees,
Turn I back to my kind,

and good sense transcend that of the Eternal Law, rather than

Worthy as these.
 There at least smiles abound,
 There discourse trills around,
 There, now and then, are found
 Life-loyalties.

T.Hardy.

"Thought must strive to bring to expression the nature of the ethical in itself. To effect this it arrives at defining ethics as devotion to life inspired by reverence for life... Sympathy, and love, and every kind of valuable enthusiasm are given within it... Arising, as it does, from an inner compulsion, the ethic of reverence for life is not dependent on the extent to which it can be thought out to a satisfying conception of life. It need give no answer to the question of what significance the ethical man's work for the maintenance, promotion, and enhancement of life can be in the total happenings of the course of nature. It does not let itself be misled by the calculation that the maintaining and completing of life which it practises is hardly worth consideration beside the tremendous, unceasing destruction of life which goes on every moment through natural forces. Having the will to action, it can leave on one side all problems regarding the success of its work. The fact in itself that in the ethically developed man there has made its appearance in the world a will-to-live which is filled with reverence for life and devotion to life is full of importance for the world. In

In my will-to-live the universal will-to-live experiences itself otherwise than in its other manifestations. In them it shows itself in a process of individualizing which, so far as I can see from the outside, is bent merely on living itself out to the full, and in no way on union with any other will-to-live. The world is a ghastly drama of will-to-live divided against itself. One existence makes its way at the cost of another; one destroys the other. One will-to-live merely exerts its will against the other, and has no knowledge of it. But in me the will-to-live has come to know about other wills-to-live. There is in it a yearning to arrive at unity with itself, to become universal.

Why does the will-to-live experience itself in this way in me alone? Is it because I have acquired the capacity of reflecting on the totality of Being? What is the goal of this evolution which has begun in me? To these questions there is no answer. It remains a painful enigma for me that I must live with reverence for life in a world which is dominated by creative will which is also destructive will, and destructive will which is also creative.

The surmisings and the longings of all deep religiousness are contained in the ethics of reverence for life. This religiousness, however,

humbly and imperfectly participating in its perfection, so that the Eternal Law is called upon to participate in the human law. ⁽¹⁾

Some Christian thinkers, however, are able to see, in the light of the suffering and redeeming love of Christ, that the conflict and suffering and ruthless ness of created things witness to the fact that redemption, sacrifice and suffering love are at the heart of creation. ⁽²⁾

does not build up for itself a complete philosophy, but resigns itself to the necessity of leaving its cathedral unfinished. It finishes the chancel only, but in this chancel piety celebrates a living and neverceasing divine service. (Albert Schweitzer: Civilization and Ethics, pp.244-246.)

(1) See God's Education by Thomas Hardy;
God's Education

I saw him steal the light away
That haunted in her eye:
It went so gently none could say
More than that it was there one day
And missing by and by.

I watched her longer, and he stole
Her lily tincts and rose;
All her young sprightliness of soul,
Next fell beneath his cold control,
And disappeared like those.

I asked: "Why do you serve her so?
Do you, for some glad day,
Hoard these her sweets —?" He said, "O, no,
They charm not me; I bid Time throw
Them carelessly away."

Said I: "We call that cruelty—
We, your poor mortal kind."
He mused. "The thought is new to me,
Forsooth, though I men's master be,
Theirs is the teaching mind! ". T.Hardy.

(2) C.E.Raven; The Theological Basis of Christian Pacifism. pp.42-4. Is Victor White's suggestion in The Morality of War, p.5, that 'Perhaps it was cynicism, but perhaps there was more wisdom than was recognised, when the explosion of the first atom-bomb in the desert of New Mexico was given the code name of 'Operation Trinity,' at all analogous with this point of view?

Such an insight starts from Christ and must be the work of faith, for ruthlessness and suffering love are hard to reconcile. Reason would separate them.

The examination of the ontological basis of Aquinas's teaching on natural law does not prove without doubt that it has firm theological foundations. Reason alone cannot reach satisfactory certainty about God and his Nature, and even if it has an inkling and a dim and insecure knowledge of some Infinite Power behind all things, this is not enough to identify such a power with Jesus; and even if reason has a sense of kinship with this power it is not enough to guarantee that its own way of life and its own small authority are divine.

CHAPTER NINE

SUMMARY OF AQUINAS'S ATTITUDE TOWARDS WAR

Aquinas's direct teaching on war then is slight, unoriginal, derived more or less wholesale from Augustine and Gratian, abstract and theoretical, dry, dogmatic and inspired by no personal emotion or thought. It is related neither to contemporary political and ecclesiastical conditions or events, nor to the rest of his thought. It crops up in a treatise on charity, but is considered as a problem of justice. Nevertheless it is considered there, in both individual and social aspects, as a specifically religious problem, and Aquinas professed to give a clearcut Christian ruling.

Neither his natural reasoning, his consideration of the ethical and political issues involved, nor his reconciliation

of just warfare with Christianity was, in the war articles, at all complete or adequate, although he seemed entirely satisfied with his conclusions. His treatment was even a little vague; he did not discriminate between offensive and defensive war, he allowed authority to declare war to 'any public person' at a time when superior imperial and papal power existed, and he regarded the limited 'common good' of a province or nation as sufficient justification. He omitted to state that war could only be just if it were a last resort, and that arbitration should be sought at all costs. His moral justification of deceit is doubtful.

In the war articles Aquinas by no means dealt exhaustively with the Biblical material which is relevant to the question of war. He did not note that there is no specific teaching of Jesus on the topic, nor did he include the few texts where war is mentioned and the most obviously relevant Sermon on the Mount. He also failed to consider how Jesus' life, his attitude and behaviour, particularly in relation to the political background against which he lived, might give guidance on the issue.

In his selection and application of specific texts he

followed Augustine. It is very clear from the Catena Aurea that Augustine was the chief, if not the only commentator who went out of his way to reconcile warfare and punishment and judgement with Jesus' most pacific teaching. And it is notable that in the war articles Aquinas used such interpretations, ⁽¹⁾

- (1) Luke 3. 14. Only Augustine mentions that this implies a sanction of warfare.
- Matthew. X. 34. Augustine alone manages to suggest that the sword of which Jesus was speaking may be a literal sword, when he says that the most perfect peace is achieved when that which is diseased and causes strife, is cut away.
- Luke. XXII. 35. Augustine and Bede in particular feel that circumstances can alter commandments, and they think the disciples were really commanded to carry arms.
- Matthew. XXVI. 52. It is only Augustine who, by distinguishing between to take the sword and to use it unlawfully, made it possible for this event and saying to be used in the service of war.
- Matthew. V. 38 - 48. Augustine alone emphasised that although non-resistance as well as non-retaliation is enjoined, and Christians must be willing to suffer wrong, this is not incompatible with merciful correction, and that (by keeping spirit and deed separate) it is possible to fill the command in spirit while at the same time giving mercifully short shrift to the attacker. And in the commentary on Jesus' teaching on non-resistance, he states that to keep the commonwealth Christian its wars must be waged with good character for the restoration of harmony with all the setting up of godliness among the vanquished who are, of course, our neighbours.
- Augustine said that as Jesus when struck did not turn the other cheek, the command should be followed in spirit but not necessarily literally.

probably because he was there rather uncritically copying Augustine, whereas in his own commentaries he was more free of such influence and intention.

He was guilty at times of oversubtle if not dishonest reasoning in giving to some words of Jesus, meanings which are inconsistent with the main stream of tradition expressed in earlier and later commentaries, including his own. His likening of giving that which is holy to dogs to letting the enemy know about plans for attack is opportune, arbitrary, is indeed a perversion of the text. His implication that just warfare is identifiable with the spiritual warfare Jesus arouses, or that the material peace Jesus come to disturb is not the material peace at which war aims, is unacceptable on the grounds of his own and almost all other interpretations.

His inconsistency and the dangers of oversubtle exegesis are most evident in his dealing with Jesus' command to Peter to put up the sword, and His warning that 'all they that take the sword shall perish with the sword'. In spite of the elaborate exegesis and his application of some of it in the war articles, Aquinas did not make its significance quite clear. In the war articles he accepted Augustine's explanation that Jesus was

condemning those who take the sword inasmuch as to 'take' means to use unlawfully, even though in the Catena Aurea, Augustine allowed that Jesus commanded the disciples to take the sword. And in the war articles Aquinas allowed this saying as justification of the sword of righteous warfare, the sword which causes to perish those who take it unlawfully.

At the same time he considered that both the command and the warning were addressed to Peter, who had been authorised to take it by Jesus, and was in the act of using it in apparently the most justifiable sense, to defend the sinless, and concluded that even just warfare is entirely forbidden to clerics on penalty of perishing by the sword.

In his commentary, indeed, there is no attempt to make this text justify warfare, although there is an implication that the sword divinae sententiae can be expressed militarily. At the same time Aquinas stated that those who take the material sword will perish by their own sword, and Jesus' refusal of defence is acknowledged as an example which ordinary men can emulate. This is stressed by the fact that Jesus, by refusing also supernatural help, remained fully human throughout. Perhaps

the most interesting thing to note is that Aquinas did not think this incident of relevance only to relationships between individuals, since he applied it to the participation of clerics in warfare.

There is inconsistency also in his accepting St. Paul's ban on material and military weapons as involving that spiritual weapons are acceptable even though, or even because, they are likely to be even more materially destructive. There is uncertainty about his claim that Paul was speaking for clerics only and not for all Christians. Certainly modern Catholicism suggests that Paul was speaking for all followers of Christ, and on Aquinas's interpretation this would mean that warfare is forbidden for all Christians. There is no proof that the soldiers of Christ referred to in the Epistle to Timothy were thought by Aquinas to be clerics only, although they were there forbidden to take part in war. There is contradictory thinking in Aquinas's idea that clerics should abandon physical warfare, since their aim is to defeat God's enemies, when physical warfare is justified on the ground that this is its aim too. It is only on grounds of his vocation that a cleric is allowed to be entangled in secular affairs, by why this

should not include physical warfare is not clear. Since a cleric's vocation is Christianity and since the 'entanglement' he is allowed is limited to spiritual duties, this means his vocation is itself an entanglement. Otherwise he would not be allowed to be entangled at all, so that the admonition to the soldiers of Christ would not be addressed to clerics. Since a cleric's vocation is Christianity itself, he can indeed hardly be distinguished on such grounds from other soldiers of Christ. Aquinas saw no incongruity in centering his objection to the participation of clerics in warfare in the fact that they administer the central sacrament of the Church, the Eucharist, while holding no similar objection to those who partake of the sacrament. At the same time he admitted a oneness between cleric and layman in that those who advise or fail to advise share responsibility for the fruits of their counselling or negligence. And there is some dishonesty in allowing clerics to encourage participation in warfare while disallowing them to authorize it.

There is evasion of the real issues when, for example, in discussing whether war is compatible with love of one's neighbour, Aquinas dealt only with one aspect of unlovingness, namely deceit.

This he justified to his own conscience while ignoring the severer aspects of war such as the killing and wounding.

Aquinas chose the literalist rather than the allegorical interpretation of Old Testament warfare without discussion, and there is no doubt that the Old Testament picture of Yahweh as a God of Battles must have influenced his acceptance of Christian warfare. He also confused the Old Testament prohibition of individual revenge, which he may have rightly interpreted as a restraining of savage anarchic vengeance until such time as this can be expressed through a public body, with the New Testament absolute prohibition of revenge and resistance which he himself lauds as the height and the essence of Christian teaching. But the confusion resulted in his conditioning to the extent of contradicting Jesus' words in the Sermon on the Mount and allowed him to state that God, in forbidding the individual to resist, is merely asking him to wait for that public vengeance which is identifiable with His own vengeance. The same conditioning is allowed to weaken Jesus' command to love the enemy.

It is partly the Old Testament idea that religion is primarily based on a relationship between the community and God which made it easy for him to think of political authority and activity as superior to individual, and to accept Paul's belief in the divinity of the ruler and his right to wage warfare.

It is fair, therefore, to criticise Aquinas for a very unsatisfactory, indeed contradictory, treatment of the relevance of revelation to the question of war. In fact he came extraordinarily near to completely forbidding Christian participation in warfare when he forbade it outright to clerics, for his limitation of the prohibition to the latter rather than to all Christians is based on shaky if not faulty exegesis, as well as on the now outworn distinction between the 'Two Ways'. It might be said that the whole issue rests on the exegesis of such small words as we, take, love, and the phrase resist not evil. As it was, Aquinas was able to keep clerics apart, and to conclude that Christian revelation has nothing striking, or specific to pronounce on the question of war. War is such a grave moral and social problem that such a silence might understandably seem to argue the ineffectiveness of Christianity and to call its value in question. For Aquinas Christian revelation elevated

just warfare to a divine activity, and affected the spirit of love, justice and punishment in which it ought to be fought. It had, however, no power to change outward action. This seems, indeed, like cutting Christianity in half. Thus Christian revelation was allowed to confirm the natural law position. It would seem likely that modern Catholic opinion would hesitate to support Aquinas's exegesis,⁽¹⁾ and might agree that both Augustine and Aquinas had on this issue rather fitted their Christianity into their natural ethical thinking in such a way that nature was allowed to perfect grace, rather than grace perfect nature.

Tradition has equal weight with Biblical revelation for Catholics and the just war doctrine is the strongest though not the only tradition for them on this question. To depart from it would apparently therefore be extremely difficult even if an exhaustive exegesis of relevant Scriptural material yielded a different conclusion. It might be that such exegesis, although not confirming Christian warfare would neither forbid it.⁽²⁾ If this were so it might be possible to retain the just war tradition on the ground that although it is admittedly natural law thinking, such thinking is as Christian as revelation, and certainly to be relied upon when revelation has nothing to say. Though if Christ

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- (1) Only the Old Testament teaching on warfare might seem to modern Catholics to give a Scriptural basis for war, and here they would presumably agree with Aquinas and disagree with most Protestants.
- (2) The Church does after all admit that it is doubtful whether there is a Biblical basis for all Church doctrines although it also claims that the Church teaches truths of faith (and surely also of morals?) inaccessible to reason. In what category does war fall? as answered by reason and tradition, or by revelation.

or Christianity has nothing to say on the problem of war then we are of all men most miserable.

The 'Christianity' of natural law as it is understood by Aquinas, is, however, questionable. The law of nature does, of course, profess to be a God-given law, and Aquinas's elaborate and rather dogmatic, if inaccurate, psychology does its best to guarantee the sinlessness of that part of the mind, the synderesis, most directly in contact with God in receiving this law. It does thus root moral responsibility in the individual conscience and mind, as does Christianity, and it is a very human law which can be said to be fully expressive of, understanding of and adapted to human nature, and encouraging its perfection and fulfilment. Inasmuch as the human is sacred, this must be a religious task.

Although Aquinas was not entirely happy about the identification of natural law and divine law in theory, natural law might seem perfectly reconcilable with divine law in that its guidance comes directly from God and is given to Christians and pagans alike. It might therefore, seem to provide an excellent meeting ground for them. In fact, however, it is by itself disappointingly empty and impotent, for the only absolute moral certainties it gives, namely that man must 'do good' and 'be rational', need

considerable exegesis and application if they are to guide him through life's complexities. 'Good' is an ambiguous word which reason does not properly understand, and rationality, the most absolute demand of natural law, is as likely to lead to controversial as to unanimous opinions on moral issues; it is inadequate as a moral criterion and incapable of accurate prediction of consequences. It is obviously valuable as an ingredient in moral decisions, and if Aquinas had simply recognised the partial and perhaps vague scope of reason instead of exalting it to supremacy and universality, his position might have been more acceptable.

For rationality by itself is insufficient and amoral. Intellectual research work in a vacuum might seem to be the fulfilment of natural law in that man is thus fulfilling the distinctive characteristic of his humanity, but to be truly moral it needs to be geared to some ultimate meaning or purpose beyond reason, and fitted into the whole context of life. Reason needs directives outside itself if it is to fulfil itself, and these are most apparently found in terms of his origins or his goal. Aquinas did precisely this. He included

both origins and goal within natural law and saw reason as the harmonising principle which should teleologically organise all man's natural instincts and impulses towards their utmost fulfilment and use in the service of God's purpose and rule for man given in revelation.

This sounds satisfactory and even ideal, but it is extremely difficult, and Aquinas found it often impossible to retain both nature and grace without ignoring or outlawing one or the other. It means that natural law may become more natural than rational, for irrational impulses, such as intuitions, are allowed to overrule reason and are likely to leave man at the mercy of his instincts, passions and ignorance. Harmony between nature and revelation is impossible for the pagan who has no revealed knowledge of a final end which alone can properly direct and organise his impulses and reason. If it has no final goal, it will turn back and explain itself in terms of its lower elements. That reason itself is not unanimous in its understanding of these natural impulses and their relative power and importance is proved by the number of pagan 'naturalistic' theories or philosophies which are common today, and which find the basis and motive of human life in sex, economics, power or race. It is difficult for natural law to be a harmonising principle

when there are so many different understandings of it.

But even in Aquinas's system of natural law, which can have meaning because it can include the final end given in revelation, the incompatibility of the marriage between nature and grace is obvious. If it be accepted that Christ lived the life of man as it ought to be lived, the fully human because the fully divine life, that in giving out He lived out all His human faculties fully, then His life must be the finest enlightenment that natural law could have. In fact, however, Aquinas was content to harmonise the law of nature with Old Testament morality, and he seemed unaware of how incompatible it was with Christ. The law of nature is self-centred, but the impulses to self-preservation and self-fulfilment are denied by Christ, who taught that property, money, life should be sacrificed for others, and that even nearest relations, husband, wife and child should have no special preference but may even be neglected for his sake. At least spiritual fulfilment will result, but this should not be sought of itself. Although there was nothing in his law of nature to warrant this Aquinas accepted such Christianity for clerics but not for all Christians, and he saw no contradiction between it and his natural law theories.

Contradiction there is, however, and it is most marked in his teaching on defence.

Self-defence is undoubtedly natural. The impulse is so deeply planted as to appear instinctual, and it may be even just and rational. The desire to extend or improve one's own life even at the expense of others when unavoidable is so natural as to be universal. If God has given this impulse, if it is part of the order of creation, rational or otherwise, the problem is to reconcile it with Christ. The Old Testament God of battles may be identifiable with the Creator who gave this impulse. But Jesus refused even spiritual help in His own defence. He died for his enemies and forgave the most evil murderers. He behaved in a way that is 'unnatural' or 'supernatural'. He thus challenges natural man, and the burden of reconciling Him with the Creator remains.

There may be a Christian uneasiness in Aquinas's natural law ruling in that he denied individuals the intention to kill and recognised that even public killing of a sinful man is unjust in itself. He tried, like Augustine, to retain an element of Christianity by keeping the act and spirit apart and recommending that one should kill lovingly. But that war can be turned into peace by the spirit in which it is fought is rather too blindly

and blithely optimistic. This is not real reconciliation but a bad compromise which emasculates both Christianity and natural law, and so divorces the spirit from the body as to maim both. Here is no incarnation.

In any case, Aquinas allowed the intention to kill to public persons and this suggests that his denying it to individuals was not, as Professor Ramsey thinks, evidence of the taming influence of Christianity, but proof that it was merely a restriction of individual rights and authority. That he allowed unarmed defence even to clerics confirms that he must have thought of it as a thoroughly wholesome impulse.⁽¹⁾ This is not perhaps surprising if it be remembered that at times Aquinas seemed to favour the understanding of natural law of the Roman jurists, which emphasised its essential naturalness, and the affinity it had with animal instincts, rather than its divinity. In order to maintain the distinction between the law of nature and the ius gentium he stressed the less rationalistic and more naturalistic nature of the former.⁽²⁾ At times he identified the law of nature with the divine law in theory but was less happy with this identification, and he really brought the ius gentium nearer to the natural law than to divine law.

(1) The modern Catholic acceptance of killing as a means which is good in itself rather than an unintended incidental effect is presumably grounded on natural law rather than on revelation.

(2) See pp. 333-9 above.

Professor d'Entreves suggested that Aquinas reconciled Aristotelian ethics and politics with Christianity by distinguishing between their spheres of action and knowledge, but it is quite impossible to relegate divine law to the impractical, and natural law to the purely practical. And indeed Aquinas spoke at times as if politics was the science which was separate from both natural law and divine law.

Such variety in Aquinas's discussions on the topic has led to confusion as to whether Aquinas subordinated politics to morality, or whether he considered it as a science in its own right, and it is probably due to the fact that he was being comprehensive and aiming to weld, however loosely, everything human into his systematising. The question of the relationship between the ius gentium and the law of nature is important for an examination of the morality of war, war being a peculiarly political question and the ethical nature of the ius gentium being particularly relevant. Everything depends on the significance of each term. There is little doubt that Aquinas thought of political activity as a material or human expression of the law of man's God-given nature, and that man was fitted for community life and government. Just as he accepted at least a degree of

selfishness and self-centredness as quite good and normal according to natural law, so in politics he had no qualms about the mixture of self-interest and co-operativeness, and the dangers of inevitable unbalance between them which it involved. He certainly understood community life as allowing every individual his proper place, and what he considered his relevant share of authority, and wanted the common good as far as possible to fulfil the material good of the individual. In spite of the opinion that he did not establish and was not concerned with human rights, natural law, in so far as it defines duties and responsibilities must certainly be held thus to outline individual rights, the right to continue and preserve one's life, and that of one's family, the right to co-operate in community, the right to private property, and the right, above all, to follow conscience. Just warfare could thus be understood as an organised effort by a community group to safeguard or maintain these rights for itself against their invasion or destruction by others. As such war is wholesale self-defence.

Aquinas no doubt regarded such organised warfare as superior to individual defence on the grounds that a community is a richer and more important thing than an individual, public authority more just than individual authority, the community 'higher' because

literally bigger. Fighting for the community can be both self-centred and altruistic, so that warfare can seem a larger and more noble activity than individual fighting. And this no doubt partly accounts for Aquinas's allowing public servants an intention to kill which is denied to individuals. This acceptance of the intention is linked to the fact that warfare is more calculated and definitely involves the use of intellectually devised weapons. It has precisely that quality which Aquinas associated with the ius gentium when he was comparing it with the law of nature, for it is more sophisticated and rational than self-defence, which is impulsive or spontaneous. A struggle between individuals has at least the rough justice or logic of a natural lust for survival with no pretensions to morality. But many more doubtful elements enter into warfare. It has no exact parallel in nature, being distinctive of mankind, although there is no evidence that man's instincts and drives make war inevitable for him. Although there is killing of other species for food, intra-specific fighting is rare in the animal world and found as a group activity only among social insects, whose militarists are sterile and expendable. It occurs between individuals mainly as a tool of selection and is highly ritualised, with surrender signals

to prevent or minimise physical injury.⁽¹⁾ Because war is not a feature of animal biology and man is in any case not wholly the prisoner of his own instinctual behaviour, the acceptance of warfare would seem the choice of his peculiarly human characteristics of reason and freedom.

As Professor Niebuhr emphasises, there is a sense in which all man's characteristics, even his natural instincts, are never purely animal, but have a depth and power which are a potential danger or blessing because of his divinity. The social and psychological causes of or aids to warfare are many and obvious: the necessity to prove manhood, pride in the herd, the family or nation; boredom, greed, the need for subsistence or expansion of population, the isolation of national groups, the projection of one's own evils on to others, and simplification and abstraction in terms of good and bad nations and peoples. Nevertheless, there is nothing inevitable or essentially reasonable about warfare, though reason is often used in its service. The weapons with which man's peculiar ingenuity has blessed him are the fruits of his constructive and rational power. Organised

(1) Wolves engaged in mortal combat shew an advance beyond man when the weaker bares the most vulnerable part of his neck to the stronger, who then also becomes passive.

warfare, because of its rational element, may in fact, therefore, be not only more deadly but less discriminate. Acceptance of war as a legitimate measure leads to the creation of a war machine or war system in which innocent and guilty alike are caught up in an almost anarchic chaos, wherein life, law and community are liable to be lost. The impulse of self-defence in war can lead to disproportionate excess in that a man's legitimate desire to save his life or that of his family may lead him to annihilate other lives without discrimination. Reason, which is indeed exquisitely clever, has produced weapons so overwhelmingly savage and brutal in their effects as to be insane, which can only prove how easily reason can be subservient to impulse while pretending to be its own master. The claim that warfare 'just' or 'unjust' is, as a product of the ius gentium, typically rational, human and expressive of this good desire to live in community seems most unlikely. However excellent politics or government may in itself or in some of its achievements be, it must surely be true that acceptance of warfare even by the 'just' means that community and reason, the characteristic ingredients of the ius gentium, have been temporarily surrendered. This is consistent with the fact that warfare was generally

regarded by political thinkers before Aquinas as the chief expression of the sinfulness of man, and one which necessitated political organisation. Because Aquinas saw warfare as a result of human nature rather than of sin he was not so worried by it, but this must mean that he here under-estimated the sinfulness of human nature. He was more reluctant than most thinkers to accept government as caused by as well as cure for sin, and perhaps this was consistent though less realistic, for a thing caused by sin cannot be a real cure for it. Even just warfare adds nothing to the primitive situation which confronts it. Living in community is as likely to create problems and to irritate the selfish and savage elements in man as to remedy them.

The fact that politics is caused by and a cure for sin really implies that whether ideally or in practice it is never wholly bad or good. It is a means towards an end and its goodness or badness depends on the goodness of the accompanying means and end. Government is in itself amoral, but capable of yielding great good or great evil. Its complexity and higher organisation can help it to be superior in its scope to either individual good, or evil. Even if political activity is equal with or even superior to the law of nature, the same difficulty

remains as with the latter, that is its reconciliation with Christianity. Christ said little or nothing about politics beyond implying that it demands a limited, discriminating allegiance, and he said nothing about war, but it has generally been presumed, spoke only of individual attitude toward the enemy. There is however no real reason why it should be so presumed that Jesus was speaking to individuals and not to groups. If the community or group can itself be justified on Christian grounds, it can surely be addressed in Christian terms. And some schools of opinion regard the Sermon on the Mount as

'the transcending of the lex talionis
by a new dynamic of community'

and that

'to argue that privately the Christian must love his enemy but in the group situation fight him, is a denial of the ontological character of Christian experience.' (1)

There is no doubt that in theory Aquinas allowed the ultimate supremacy both of the individual and of Christianity. The political natural law may transcend individual natural law, but it cannot transcend divine law whether individual or communal.

(1) Paul Peachey: God Establishes Both Peace and Justice, p. 5.

The individual must be allowed both to act towards the State and to challenge it if necessary in the interests of a wider and higher community. Aquinas was inconsistent in forbidding in his gospel commentaries individual non-resistance of a public evil, particularly as he recognised that all evil is part punishment of one's own sin. Justice, so often considered an essentially collective and political virtue, was for Aquinas primarily and essentially subjective, springing first from, and ultimately resting in, individuals. War seems less likely to achieve justice than any other form of political activity.

There is a sense in which Aquinas also gave supreme value to the individual at the very moment of denying it. For he centred moral responsibility in one man, the king. This is really perverse in that it eclipses the individuality of other members of the community.

In spite of this repeated and important respect for the individual, Aquinas reconciled the political teaching on war with religion on the basis of the divinity of the king as God's minister. The divine right of the king was a doubtful doctrine

the pretensions of which have been shown up in the course of history. And the 'divinity' of the government may be created as much to compensate for as to confirm fallible human judgement. Aquinas's comparison of the various forms of government proves again that the individuals who make up the governing body are more important than any particular form.

There is no doubt that whether his answer is right or not Aquinas did consider that the moral problem of war is at bottom one which is to be answered in terms of subjective morality, and religious morality. Vanderpole and Stratmann are right in thinking that not only did he consider right intention and fault essential in the just and unjust respectively, but a study of his understanding of justice makes it clear that an objective injustice would not have been a sufficient cause of war for him. On the other hand his failure to consider the possibility of a war being just on both sides, and that, in fact, in any war there must be on each side a great mixture of subjective justice and injustice, does make his ruling in itself collective and objective. He applied a criterion applicable only to individuals to a group, without apparently noting the difficulties involved. Thus, as Stratmann says, his ruling does make war difficult if not impossible to justify, though this may be because it is unrealistic.

And perhaps the most serious criticism of his doctrine is that he was ruling mainly for aggressive warfare. Even on natural law principles it is very questionable whether an aggressive war in defence of anything less than life, such as property⁽¹⁾ or honour, could ever be justified, particularly as Aquinas held private property less ideal than common ownership. The admission that any killing of any man is in itself unjust further undermines even his justification, let alone the Christianity, of warfare and is opposed to modern Catholic opinion which, having rejected the law of simultaneous double effect as inapplicable because hypocritical in modern warfare, and unwilling to allow a bad means towards a good end, has to accept killing as a good means. The only justification of killing for Aquinas is that it be for the good of the community, but this was a limited and material, albeit, no doubt, a real good, which may itself conflict with the wider spiritual and material good of all.

The difficulty of reconciling natural law with Christianity might perhaps prejudice Christians against it. This may perhaps be due to the limitations of revelation, and it might be

(1) There is a sense in which property is livelihood but the desire to hang on to things partly acquired by the morally doubtful instincts of acquisitiveness, aggressiveness and lust for power, at the further price of death, is not entirely justifiable.

possible to find, within a more universal and cosmological setting, some other religious ground for reason, nature, goodness. (1) Natural law in Aquinas's theory draws its dignity and divinity from its participation in the Eternal Law which is God. But reason cannot with certainty even find God. It can guess at His great probability, but not prove Him infallibly. The qualities of God which Aquinas claimed that reason can reach, His Wisdom, Infinity, Immutability, Goodness, Oneness, Intelligence, and Love are so abstract as to be of no great help in moral guidance. It is only on the basis of analogy that man can understand so much but the doctrine of analogy is more than dubious and even if it were valued, the knowledge it claims to yield of God's Nature is so slight and so analogical as to be rather worthless.

Professor d'Entreves claimed that natural law was above all concerned not with individual rights but with practical matters and politics. It outlined, he said the duties of government and political allegiance, and it did this precisely

(1) Vidler and Whitehouse, p.38:

" ... It is also manifest that the formulation in their proper order of the detailed rules of Natural Law is a matter which requires a high degree of technical skill and a wide acquaintance with the principles not only of law but also of ethics and of psychology (which is in some sense the ground of ethics) and of metaphysics, of which the principles govern all being. La metaphysique imbibe tout."

by virtue of its cosmological connection with the great governing Eternal Law. In fact Aquinas stated that the particular virtues related to practical things and politics are not found in God. There can be no very relevant pattern for human government therefore in the Eternal Law. And both in theory and in practice the order which Aquinas thought the highest good of created things does not seem perfect. Aquinas interpreted the imperfections in Creation as due to created things themselves rather than to the Eternal Law working through them, but he thus divorced moral and ontological evil, since secondary causes have no moral responsibility. He then justified the ontological evil on the ground that it made for the individuality of things and brought some nearer to God than others. Thus he identified ontological evil with both ontological and moral goodness. The ontological conception of goodness and evil, which is the heart of Aquinas's thinking, is therefore very difficult for reason to understand.

Outside man the preservation of the whole, good or not, has to include the sacrifice and suffering of some individuals. There is among living things only the law of struggle for survival and the survival of the fittest, from which Aquinas's teleology is not far removed. The law outside man does not seem morally much better than that within him. Or is it indeed God? Do we find here, in the 'law of the jungle', the justification as well as the basis of Aquinas's teaching on war?

The government of things, even of animals, is of course different from the government of people, but about this the universe is silent. Organisation in human affairs there must obviously be, but it may be that man has to evolve one slowly and painfully, rather than follow a ready-made pattern, through eras of trial, experiment and learning. He is thus called on not so much to obey as to create and creation calls for imagination and the devotion of the whole mind and being. Progress depends on such wholehearted devotion. It would seem that men should devote themselves to preventing and outlawing war rather than justifying it by such unsatisfactory arguments. The 'justification' may be looked on as a limitation, to some extent, and it is. But it also accepts war, and that acceptance may breed an attitude of mind which becomes complacent about war in general. To Aquinas to kill in any way was in itself unjust. As war is nothing but the killing of men, in itself, therefore, it must be held unjust.

CHAPTER TEN

THE DEVELOPMENT OF TEACHING ON WAR BETWEEN AQUINAS AND GROTIUS.

During the three centuries after Aquinas, the just cause of war which he had defined in general terms as some injury which deserves punishment⁽¹⁾ was more precisely elaborated.

Defence, which had been often ignored, and of which Aquinas said nothing specific in his war articles because he took its rightfulness for granted, came to be recognised as a specific cause.

(1) Q.X. in Jos. See p. 43 above.

Recuperatio, the recovery of goods unjustly stolen and held, or wrongly taken in some previous conflict, was also listed as another main cause. A punishable injury was regarded separately.

This list of three distinct causes, each accompanied by its own rights and conditions, first appeared in the Summa Astesana (c.1330)⁽¹⁾ and it was often repeated. It was generally accepted that in defensive war there should be no element of punishment and that it was right to recover only what had been wrongly taken. Beyond this there was to be no enslavement of prisoners and no seizing of enemy possessions.⁽²⁾ It was also generally recognised that defence derives its authority from its own intrinsic justice, and does not necessarily need external or superior authority. It may also reach out to allies, friends and neighbours.

Recuperation was placed somewhere between defence and aggression. Recovery in continenti, which was a more or less instantaneous upshot of an earlier conflict, and which can be thought of therefore as an extension of defence, and as sharing its conditions and rights, was distinguished from recovery after

(1) Regout: La Doctrine de la Guerre Juste, pp.94-8

(2) Cajetan, however, states that these conditions apply to a defensive war carried out with only private authority, whereas in a proper war, authorised by the prince, one can enjoy the full rights of war, seizing the goods and persons of the enemy.

an interval of time, which by different writers was called either defence or aggression. Henri of Gorychum, (c.1431) for example, would call such recovery an act of defence,⁽¹⁾ whereas it was more often widely seen as a new act having something of the nature of aggressive war and, therefore, requiring proper authority. St Anthony of Florence (1389 - 1459) and others held both recovery in continenti and defence as legitimate without superior authority, but thought that recovery after an interval of time was wrong if embarked upon when a superior authority could have been but was not appealed to. Otherwise, if there were no superior authority to appeal to, this act of later recovery could be carried out on the authority of the injured. Even so, although the guilt of the enemy were proved, such a war included no rights of punishment.⁽²⁾

Regout, indeed, claims that all writers agree that although punishment is an element in all other types of aggressive warfare, a war of recovery after an interval of time is not in any sense punitive. This, he thinks, is confirmed by the separate definitions of a war of punishment and a war of recuperation.⁽³⁾

Cardinal Cajetan (1468 - 1534) also distinguished, albeit incidentally, wars of recuperation from wars of defence or sanction,

(1) La Doctrine de la Guerre Juste, p.105.

(2) Ibid., p.113, p.120.

(3) Ibid., p.143.

but he did not say whether a war of recovery after a time should be treated as defence or aggression.⁽¹⁾ Gabriel Biel (c.1425 - 1495) widened the meaning of recovery to cover more than the mere regaining of objects stolen, and gave it the more general sense of the repairing of material and moral wrong.⁽²⁾

The third case of war was an act of vindictive justice, directed against the moral guilt of the enemy as punishment of this guilt.

Regout remarks that this, which had been the most important justification for war for Augustine, Aquinas and Alexander of Hales, slipped into the background of the thought of this later period except in the writings of such theologians as Cajetan and Sylvester.⁽³⁾ Most thinkers limited the right to punish to just wars of aggression, for they held that this type of war alone was regarded as a war with full rights. Punishment could include the capture and enslavement of persons and the confiscation of goods and property. Early in the sixteenth century Cajetan urged that the sin of guilt of the enemy gave the just side authority coming from God through the specific power of the sovereign, to punish people normally beyond its jurisdiction.⁽⁴⁾

Although pope and emperor were generally taken to be the

(1) Ibid., p.128.

(2) Ibid., p.119. p.143.

(3) Ibid., p.141.

(4) Ibid., pp.124-6. p.145.

highest of authorities, there was much discussion of the precise nature of proper authority and controversy between the champions of temporal and spiritual power about which was superior. In theory such power had long been held to belong to pope and Emperor de iure, but in reality many independent kings, as those of France England and Spain, were recognised as having full authority to declare war. Cajetan thought that an independent prince who had been attacked held the right to wage a just war against, to legislate for and to punish offending foreigners, from God and natural law rather than from any superior temporal authority.⁽¹⁾ As this comes near to allowing the right to punish as part of defence, Regout argues that because Cajetan kept the notion of penalties outside his definition of a just defensive war he must have held that some of the violence of the latter has other ends than punishment, and therefore that violence unrelated to punishment is justifiable.⁽²⁾

Regout concludes that punishment is not an integral part of a just war or even of a just war which a prince engages in on his own initiative. Although the medieval writers did not consider the possibility of action which is only objectively unjust as a legitimate cause of war, he thinks that for all of them even including Aquinas and Cajetan, the true justification of any war, defensive or aggressive, was the maintenance of justice and order

(1) Gabriel Biel claimed also that justice is its own authority, that war can be made without formal authority, by virtue of divine and human law. (La Doctrine de la Guerre Juste, p.117, p.145.)

(2) Ibid., p.129.

and the safeguarding of the good of the community. Any violation, however subjectively just, of such a good, he says, would have brought about an aggressive war, although such a war would not have a penal character.

"The medieval doctrine of the right of war has not, according to us, as centre of gravity, the culpability of the injustice, but the injustice which is culpable." (1)

Most of the other developments of this time were less important. The treatment of right intention in embarking on a just war, however, was significant. Purity of intention was still held essential, but its absence said Gabriel Biel, makes the war guilty, not unjust. Regout thinks that the word 'unjust' was deliberately left out.⁽²⁾ Cajetan also held that right intention is necessary for blameless ness, but that its absence does not lessen one's right to what has been taken from one. One has a right to one's own goods, and on this right depends the right of recovering them. And although a right intention is necessary to avoid moral fault, its absence does not make a war to regain one's own goods, unjust.⁽³⁾

Among the things one has a right to protect, defend, avenge or otherwise aid were friends and allies. Martin of Lodi said that friends could help an attacked nation even if help were not asked for.⁽⁴⁾

(1) La Doctrine de la Guerre Juste. p.146.

(2) Ibid., p.119.

(3) Ibid., p.129.

(4) Ibid., p.115.

If, in a war justly undertaken, the wrongdoer offers satisfaction before there have been any casualties said Cajetan, the war should be ended as it can be right only when utterly necessary.⁽¹⁾ More and more, indeed, thinkers of his time were coming to allow war only as a last resort for maintaining or restoring justice after all other means of settlement had been tried and had failed. At the same time most of them did not think of the oppressive deeds of an independent prince against his subordinates and subjects as an aspect of war at all. And in the time of this comparative simplification of theories of justification they began to turn their minds to the study of the means of conducting war.

Thinkers of the earlier middle ages had found that although they believed in the theoretical coincidence of justice and victory, they had no grounds for guaranteeing victory beforehand to an army which seemed to have justice on its side. Later thinkers, therefore, held, simply that on the one hand the prince should reckon the likelihood of victory before beginning a just war, and on the other, that the prince who believed he had power to win a war should only put his strength to the test if all the conditions of the just war were fulfilled.⁽²⁾

(3)

Victoria (1480 - 1546) was the first theologian after Aquinas

(1) Ibid., p.126.

(2) Ibid., p.148.

(3) The following references are to sections of the translation of De Indis Relectio Posterior sive De lure Belli Hispanorum in Barbaros, by John Pawley Bate, in Ernest Nys's Edition of De Indis et De lure Belli Relectiones, Being Parts of Relectiones Theologicae XII, by Franciscus De Victoria, pp.163-187.

to make an influential contribution to the doctrine of war. He accepted armed defence of property, life and honour as justifiable without question,⁽¹⁾ but held that offensive war must fulfil the conditions of being declared by the right authority,⁽²⁾ being carried out in the right manner, and having a just cause.⁽³⁾ The occasion of such an offensive war - bellum offensivum - must be an injustice suffered, injuria accepta.⁽⁴⁾ Such a war should be the only and the ultimate means of repressing the injustice,⁽⁵⁾ and there should be a proportion between the evils let loose by the war and the good one hopes to attain by it.⁽⁶⁾ In such a war the enemy are not justified in defending themselves inasmuch as they fully recognise the justice of the aggressor.⁽⁷⁾ Vitoria was original in stressing that this good should be the good of Christendom and the whole world, not the limited good of a nation or people.⁽⁸⁾

The guilt of the enemy was not, however, essential for a war to be just.⁽⁹⁾ A war to recover wrongly held goods or property may be initiated against an innocent enemy acting in good faith, and it would involve no element of punishment. In Vitoria the recovery of stolen property or lands was differentiated from punishment.⁽¹⁰⁾ The differences were defined within the context of a war of punishment,⁽¹¹⁾ but Regout claims that this shows how Vitoria saw in

(1) 1 - 3. (2) 5 - 9. (3) 10 - 12. (4) 13 - 14. (5) 60. (6) 37.

(7) 32. (8) 1.

(9) Vanderpol thinks that Vitoria did insist on guilt. But as evidence says Regout he quoted Vitoria's ruling for an offensive war, a war of vindication.

(1) X44. "Prefatory to an answer be it noted that as is shewn by what has been said above, war is waged: Firstly, in defence of ourselves and what belongs to us; secondly, to recover things taken from us; thirdly, to avenge wrong suffered by us; fourthly, to secure peace and security."

(11) 46.

(1)

'recovery' and 'vindication' different elements. Such recovery is accepted as a sole justificatory reason for war and as a form of defence. Vitoria followed the medieval distinction between defence in continenti and recovery of goods after an interval of time. A private individual had the right to defend his person and his property but he could neither administer justice nor attempt to recover his goods after some time has passed. Defence in continenti, however, was permitted to him. (2)

In his commentary on Aquinas Vitoria separated recuperare from vindicare and punire, but it appears that he used the latter two words synonymously. He always used the phrase bellum offensivum for a war of real vindication.

A war of recovery is only describable as a war of defence inasmuch as those who are in possession of the goods one has a claim to resist by fighting. The initiative of both the injustice and the violence is in one sense with the enemy, on the other hand the declaration of war as such is the responsibility of the 'defending' side. Such a war of recovery has therefore at least the appearances of an aggressive war. But whether the enemy are punishable or not its aim was not, for Vitoria, punishment. He reckoned, however, that it is permissible to take all measures to ensure victory and security, and also to exercise one's full

(1) 44 and 46

(2) 5

rights. It is not necessary to limit one's activities to recovering, in a narrow sense, merely the goods taken by the enemy. Vitoria did not believe that a war can be both objectively and subjectively just or unjust on both sides, but he did believe that if the enemy truly think themselves blameless, the war may be subjectively just on both sides; this, however, did not for him alter its objective justice.⁽¹⁾ He was the first to acknowledge that in war soldiers on both sides may be blameless, in that they act in complete good faith,⁽²⁾ and he went so far as to say that this is so in the majority of cases.⁽³⁾ The responsibility for moral fault in war amongst Christians, he thought, lies with the prince or other sovereign authorities⁽⁴⁾ although sometimes both princes may be acting in good faith. Where such subjective innocence existed, no punishment involving death or confiscation of property, could be carried out,⁽⁵⁾ but on the other hand, such innocence did not forbid the intentional killing of innocent soldiers in an otherwise just cause for it is legitimate to defeat them.⁽⁶⁾ Here as elsewhere⁽⁷⁾ Vitoria gave up the traditional ban on intentional killing of the innocent.⁽⁸⁾ However, he still held that guiltless persons may not be killed to avoid future danger, it being tolerable that

(1) 20. (2) 32. (3) 48. (4) 24. (5) 33. (6) 48. (7) 37. (8) Sometimes it is right, in virtue of collateral circumstances to slay the innocent even knowingly. Regout (p.173) admits, however, that in some passages Vitoria seems to say it is wrong to kill innocents in any circumstances, but he reckons that these passages are vague and do not balance the others where such killing is admitted. But these passages remain, and suggest that Vitoria never really reconciled the issue: By the law of nature he held it is murder to kill the innocent. Extension of empire is not a just cause, otherwise each of the belligerents would have an equally just cause and so both could be innocent - this in its turn would involve the consequence that it would not be lawful to kill them and so imply a contradiction because it would be a just war.

anyone should be killed for a fault that has not yet taken place.⁽¹⁾

Vitoria thought that if a subject were convinced of the injustice of a war he ought not to serve in it even on the command of his prince.⁽²⁾ Soldiers are not excused when they fight in bad faith.⁽³⁾ Nevertheless he stipulated, rather contradictorily, that although they have a right to do so, lesser people who have no place or audience in the king's council have no obligation to examine the justice of the war, but should serve in it in reliance on their sovereign. And he held that even if those of the lower orders perceived the injustice of a war they could not stop it, and their voice would not be heeded, so that any examination of its righteousness would be useless.⁽⁴⁾ At one point he almost implied that if subjects became too conscious of the justice of their cause it would be unlawful to kill them, so that examination into the justice of a war might be undesirable. Unbelievers would then be excused when they follow their chieftains to war against Christians, and it would be unlawful to kill them.⁽⁵⁾ If the injustice is flagrant, ignorance is certainly no excuse.

He also thought that the prince is under no obligation to give his reasons for making war to his subjects, and he did not think subjects need be sure about the justice of a war before agreeing to take part in it.⁽⁶⁾ Where they are in doubt they should realise that

(1) 38. "... it is intolerable that anyone should be killed for a future fault...Hence it follows that,whether victory has already been won or the war is still in progress, if the innocence of any soldier is evident and the soldiers can let him go free, they are bound to do so.... But inasmuch as what is there enjoined is in the form of a common law of war for all future time...the Lord enjoined it because all adult males in an enemy State are deemed guilty, and guiltless cannot be distinguished from guilty. Therefore all may be killed.'

(2) 22 - 3. (3) 22. (4) 25. (5) 20 and 26. (6) 25 and 31.

refusal to fight the enemy would be a greater evil than fighting them, since it would involve the risk of betraying the state.⁽²⁾ He thought that although one is not justified in doing anything about which one's conscience is in doubt, doubt about the justice of a war is accompanied by a certainty that it is right to fight for one's prince, and this in itself justifies participation.⁽²⁾

Regout thinks that during the sixteenth century the consideration of probability, for which Vitoria was largely responsible, introduced an element of corruption into the traditional doctrine.

Vitoria's opinion was that in a case of doubt, the side which is in possession of the disputed property has the greater right. If neither side is in possession there is no just cause for war, and some amicable arrangement must be made. It is only when the right of a prince to a certain territory is absolutely determined that there is any real reason for war. The question should be solved by the application of principles equally admitted in a process of civil law, but some international court must decide on the rights of possession.⁽³⁾

Vitoria's main contribution to the doctrine of war, then, is his firm belief that a situation which is only objectively unjust is a sufficient cause of war. He was also the first consciously to allow the deliberate killing of innocent soldiers as just, but

(1) 31.

(2) 31.

(3) 27 - 9.

but he did this only by considering them as purely impersonal elements, and their destruction as means to a desirable end.⁽¹⁾ He followed earlier thinkers in separating their personal and punishable elements from the actual process of war itself, as more suitably dealt with after the war is over.⁽²⁾ Vitoria, therefore, justified war only by depersonalising it. But war is a thoroughly personal activity, so such a justification is negligible.

The war of recovery makes quite clear the difficulty in some cases of separating defence and aggression. Sometimes the issue may be quite clear, but a war is part of a total human situation much wider than a battlefield or political relations. Defence and aggression can look much the same, particularly today when defence takes the form of psychological aggression, with defensive weapons already aggressively pointed towards potential enemies, and when literal aggression on a small front may be regarded as defence against more dangerous menacing influences. The permissibility of regarding recovery after an interval of time as defensive action, particularly when the 'enemy' is innocent, is dangerously subtle. If it were aggressive in the sense of endangering and violating human life for the sake of property, it

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- (1) Regout thinks that the putting to death which happens inevitably in the midst of a just war against innocent adversaries is not considered by Vitoria as 'occisio per se et ex intentione' and is not, by consequence, necessarily illicit. (Regout, pp.172-3)
- (2) He talked never of bellum vindicativum but always of bellum ad vindicandum. (Regout, p.169)

would seem quite unjust, for the condition that the means should be proportionate to the end must mean that no human life should ever be sacrificed for the sake of material goods or prosperity.

The separating of punishment from the act of killing and maiming would also seem a little academic. To accept that one can kill and injure without thereby in any sense punishing is curious, as is the condition that punishment must be left until the war is over, when, in fact, half the suspects will have been already done to death. Even though the killing in war may not be administered directly and individually in relation to individual guilt, it must be seen as in fact a real punishment for at least some objective crime, though as such it must be highly unjust.

Regout claims that Vitoria justified violence not in itself, but only as a means, that he did not see in the adversary the punishable person who ought to be punished but the danger which should be dissipated, the obstruction which must be removed. ⁽¹⁾ But to act in this way assumes the man is worthy only to be treated as an impersonal and expendable thing. that /

The idea that war can be justified as a purely impersonal means so that relatively blameless human lives can be used casually as mere things or weapons to put right a situation which is only objectively unjust is itself most unjust, even criminal. c/

(1) p.172

War can never be rightly regarded as a merely mechanical method of adjusting a situation, such reasoning is inhuman and clumsy and more coldbloodedly cruel than any savage natural instinct.

Although Vitoria at one time allowed that even a defensive war could not be waged satisfactorily were no vengeance taken on enemies who have done, or tried to do, a wrong, he usually agreed with most other writers that a war of defence should carry with it less punitive rights than a war of aggression. This is surprising, for nothing can be more blameworthy than an attack on life.

Recognising as he did that it is quite usual for the soldiers on both sides to be subjectively innocent, Vitoria must have realised that one of the main causes of war is this misguided innocence. One of the main cures of war must then be the greatest possible degree of enlightenment of the ordinary soldier as to its causes and the justice of them. It is strange that Vitoria did not insist on such enlightenment, but was content to ignore individual moral responsibility, placing the burden of the latter on the prince alone. And yet when a subject is in doubt as to whether in obeying the prince he is obeying God, he can still be completely happy that sheer obedience to the prince is in itself blameless. There is here again a conflict between two principles which cannot be solved by simply forgetting one of them.

(1)

Vitoria seems to have thought that Aquinas believed that the Gospel law forbids nothing which is allowed by natural law. He assumed that armed defence of life is more obviously allowable than defence of property, but ruled that even if natural law should not allow the latter, it could be rendered lawful by civil law, and as long as no scandal were caused, not only to laymen but to clerics and other persons.

He allowed considerable authority to both civil and international law. By the law of nations he meant laws between them, of which natural law was the source. But reason, faced with the problems of civilisation, would have to construct new, and perhaps changing and artificial, laws; when reason fell short, revelation might supply the answers. In addition, habitual use and custom, involving consent between private individuals and groups and consent between peoples and nations, could help to build up international law. Such consent is evident in the change from common ownership to private property. The establishment of human usage and custom as a law really means the acceptance of majority opinion and decision, and it is in this that for Vitoria, the ius gentium differs from natural law. He pointed out that it may be a written or unwritten law, and one which does not necessarily bind all people.

He thought the ius gentium nearer to positive than to natural law. In some cases, however, as in the law which guarantees the

(1) The following is gleaned from J.B. Scott's assessment of Vitoria's view of natural law. (J.B. Scott: The Spanish Origin of International Law. pp.137-172.)

protection of ambassadors, it comes so close to natural law and has such worldwide acceptance that natural law cannot be observed without it. The ius gentium does not necessarily follow from natural law, however, or it would be natural law. But if not wholly, it is nearly so and often necessary to preserve the fundamental rights of human beings under the law of nature. When dependent for its validity on common consent, it would seem that it can only be abrogated by common consent. But in itself it may change, as, for example, the custom of putting prisoners to death changed into the habit of enslaving them.

Vitoria insisted that all laws, human, divine or natural, should aim at the wellbeing and happiness of the individual, and that governments are made for man and not man for governments. He did not believe in a world empire for this could not be founded on civil, international or human law. But he believed that war is only justifiable in the absence of the court of a superior between the contending parties to which if it existed, they would be obliged to refer the dispute.

Vitoria's understanding of international law had a considerable influence. J.B. Scott sums up that

"His definition of International Law, its nature, its origin and its application, should not be looked upon as pedantry on the part of the Spaniard; it goes to the genesis of our international law, for the first proof of this first title of the

third section of the Reading under consideration was regarded by no less a person than Grotius, as a primal axiom of the Law of Nations, and the second of Vitoria's proofs was, as expressly stated by Grotius, the foundation of his tractate on "The Freedom of the Seas," which is regarded by not a few as his greatest contribution to international law. Indeed it need only be said in passing that this entire section (Titles 1 - 7) is the source of that international law which Grotius set forth in his commentary on the Law of Prize, and elaborated in his large treatise upon which his reputation as an international lawyer rests." (1)

Salvioli reckons, however, that in spite of new trends of thought developed by humanists, politicians and theologians, there was, in the sixteenth century, no clear notion of international law, and war was still seen as a means of forcing people into the way of justice. The theory of sovereignty meant that the state was asserting itself against the church, feudalism and the Empire. Renaissance French and Italian writers such as Bodin, Macchiavelli, and Alciat rejected the superiority of the Emperor and treated all states as equal, allowing every state the right to wage war. This was Salvioli's own view, that war is necessary and therefore just, and international law unable to judge it.

Although Vitoria used vindicare and punire interchangeably, Diego Covarruvias (1512 - 1577) distinguished between bellum vindicativum and bellum punitivum. Vindication was concerned

(1) Analysis on the Reading on the Indians Recently Discovered. Section III. (J.B. Scott: The Spanish Origin of International Law, p.141.)

with reparation, but not vengeance. Soto (1494 - 1560) raised the question of whether attacking, as well as defence against, an innocent soldier, is justified, and decided that if the war is otherwise just, it is.

(1) Suarez (1548 - 1617) found no arguments against, but rather support of, the justice of war in the Old and New Testaments. He explained that when David was forbidden to build the Temple because his hands were soiled by blood this referred to his murder of Uriah, not to his warfare. He accepted Augustine's interpretation of Jesus' words about the evil of taking the sword and his belief that fighting is not inconsistent with loving, in that it means hating deeds, not persons.⁽²⁾ Non-resistance, he thought, must be held in mind as a possibility in some cases, but self-defence is natural and necessary.⁽³⁾ Divine law, he thought, differs in no way from natural law except in relation to faith and the sacraments, and he condemned Luther's opinion that it is not impossible to oppose the chastisement of God.⁽⁴⁾ Non-resistance was, he agreed, recommended in the Gospel to individuals, but only in order to curb their evil vengeance;⁽⁵⁾ resistance was, however, regarded as absolutely necessary and justifiable for public authority, from Romans XIII.⁽⁶⁾

Public authority, Suarez felt, may more easily than individual avoid wrong feeling and self-interest and act with impartiality.⁽⁷⁾

(1) The following references are to sections of the translation of De Bello, in Vanderpol: La Doctrine Du Droit De Guerre, pp. 362-412.

(2) 312. (3) 313. (4) 315. (5) 314. (6) 337-8. (7) 318-325.

This is not necessarily true of course. His answer to the objection that it is undesirable for the same person to be both plaintiff and judge was that in war, neither nature nor humanity had yet found a better solution and that the criminal has only himself to blame if he finds himself in submission to the one he has attacked or defended.⁽¹⁾ A sovereign, he thought, has jurisdiction over foreigners by reason of their fault,⁽²⁾ but vengeance, other than defence, carried out by private authority was evil. He reckoned that a state has absolute authority only when it is perfectly independent and has above it no superior tribunal to which it can appeal. He thought of the Pope as having an indirect authority in temporal matters, and agreed with Soto that war is rarely just among Christian princes because they have open to them another way of solving their differences.⁽³⁾ He recognised that the Pope might sometimes decide not to interfere, in order to avoid greater evils, in which case the princes should keep their own independent power and jurisdiction, but whenever the Pope prohibits a war a prince sins against justice if he enters into it, and would be liable for the restitution of all damages suffered by his opponent.⁽⁴⁾

Suarez approved the opinion of Sylvester that to wage a war, however just its cause, without legitimate authority, is blameworthy.⁽⁵⁾

(1) 338. (2) 318. (3) 323. (4) 325. (6) 340.

The only just cause of war is a grave violation of justice which can be revenged or restored in no other manner⁽¹⁾, and which is proportionate to the evils which the war will bring⁽²⁾. Breach of international law, such as the refusal of passage by public ways or of mutual commerce, or injuries to friends and allies, can provoke righteous war as long as the friends themselves have this right and intention⁽³⁾. No sovereign has the right to punish injuries whenever and wherever they occur, neither God nor reason give this right⁽⁴⁾. War is above all allowed so that everyone can keep what belongs to him⁽⁵⁾. Punishment is a separate justification of war and this is proved by the Scriptures⁽⁶⁾.

A just cause by itself is not, however, sufficient. Suarez gave many examples of occasions where, although the cause may be just, the evils that might result from the war would be so great that it would not be justified⁽⁷⁾. If, for instance, a state could not give satisfaction or return what it had taken without serious harm to many individuals, and if such satisfaction were not indispensable to the prince who had demanded it, the latter would act against charity by insisting on it. Any sovereign engaging in war should also, Suarez thought, have reasonable likelihood, if not certitude of victory⁽⁸⁾. Father Stratmann attributes to Suarez and Bellarmine the condition that the means of carrying out the war must be just. ⁽⁹⁾

(1) 333. (2) 334. (3) 335. (4) 335. (5) 336. (6) 337 - 9.

(7) 340 - 342. (8) 342.

(9) The Church and War, p.72.

And Suarez, he states, was the first to apply the principle of distributive justice to war.⁽¹⁾ Suarez noted that doubt can only arise from a lack of speculative certainty, for absolute certainty is never possible. The sovereign is justified, therefore, in fighting if his rights appear most probable.⁽²⁾ Where probabilities are equal and one side is in possession, the latter should have preference.⁽³⁾ Adrien and Soto ruled that where there is doubt the property in question should be shared, but Suarez thought that this would be just only if the one in possession had doubted his claim from the first; if his doubts were more recent he might remain in possession though, as Vitoria said, under the obligation to seek for truth.⁽⁴⁾ Where there are equal doubts and neither side is in possession the property should be shared in some manner.⁽⁵⁾

Where the justice of war is in doubt it should be brought to arbitration.⁽⁶⁾ Suarez thought it impossible that God has left human things in such a state that issues between sovereigns and states can be resolved only by war, for this would seem contrary to justice and would mean the victory of sheer force. He deemed it preferable for the arbitration to be agreed upon by both sides, but acknowledged that this might be difficult and rare.⁽⁷⁾ The king should at least consult intelligent and wise counsellors and accept just pacts when proposed to him, but he should be under no obligation to wait for the arbitration of others.⁽⁸⁾

(1) *Ibid.*, p.63. Suarez. *De Bello*.

(2) 352. (3) 353. (4) 353. (5) 354. (6) 355. (7) 356. (8) 356.

If the chief soldiers are not asked to give their advice they have no more obligation to do so than the majority of soldiers,⁽¹⁾ they are put into action and do not put others into action. He noted that Vitoria claimed that charity obliges them to enquire into the justice of a war in order to give their advice if it be needed. Common soldiers he certainly thought had no need to so enquire, but should simply obey unless the injustice of the war be obvious. If they are in doubt they should obey their superiors, and he quoted in support Cajetan, Soto, Vitoria and Sylvester,⁽²⁾ who added that soldiers who are in doubt about the justice of a war should obtain all the information possible. Adrien alone denied that they should fight, for he thought it a greater evil to kill and pillage than to disobey.⁽³⁾

Suarez subtly argued that since the doubt must remain a speculative one it need not make the conscience doubtful, so that to obey would be the safest decision. Any negative doubt would be covered by the authority of the prince, any positive doubt should involve the responsibility of searching for the truth.⁽⁴⁾ Mercenaries were regarded by some as being in a different category from other soldiers. It was generally agreed that they should examine the causes of war but Sylvester and Cajetan added that in cases of doubt they ought not to take part in it. Suarez discussed the point of view that no-one has the right to pledge himself to fight in no matter which war, just or unjust, and compared this with the

(1) 357. (2) 358. (3) 359. (4) 359,362.

selling of arms, which might involve one in the danger of co-operating with the unjust, whose victims are innocent. In selling his services, the mercenary, he considered, does nothing unjust or wrong but simply makes use of a right of which he is certainly not obliged to deprive himself to his disadvantage. Suarez, therefore, considered mercenaries as in the same position as other subjects; if they have equal doubts, they may regard the authority of the prince as outweighing them.⁽¹⁾

Stratmann regards Suarez's position as shewing 'the first loosening of the old, strict war morality', and condemns his acceptance of the sovereign's justice in going to war when the balance is only slightly on his side as 'most repulsive', especially inasmuch as Suarez regarded the aggressor as punitive. Vanderpol argues that such reasoning is not comparable to that in civil law where Suarez himself insisted that in criminal matters there must be adequate proof, and if the fault is not certain innocence must be presumed. But Suarez's reasoning about war, Vanderpol argues, may easily mean that both sides are both subjectively and objectively equally justified in fighting, which is absurd. Vasquez also objected on the ground that war should be an act of vindictive justice, and such an act should be preceded by judgement. A war just on both sides, except where there is invincible ignorance, is absurd. In cases of doubt he thought the judgement of a third party essential.

(1) 360 - 362.

Suarez also considered the position of clerics in relation to war. Bishops and clerics he thought fully entitled to defend themselves, and prelates and bishops by virtue of their position as temporal sovereigns, might sanction any just war, for they would not be directly advocating killing or mutilation but only an act of force.⁽¹⁾ Their right to do so is confirmed by their civil power to constitute judges who pronounce legally on criminal matters. Divine law, Suarez thought, contains nothing to the contrary although ecclesiastical law does forbid the participation of clerics in warfare.⁽²⁾ Suarez agreed that the prince may not be able to authorise the cleric to fight without committing a fault, but that he can give him the power of fighting without injustice.⁽³⁾ Cajetan, Suarez noted, held that only in defence of his life could a cleric kill 'with his own hand' without becoming irregular, and he understood Aquinas to hold the same opinion, 'although one may say indeed perhaps that the clerics about whom he was concerned were not limited by acts of personal defence.'⁽⁴⁾ Suarez's own position was one of 'almost certainty' that a cleric who kills with his own hand is not thereby irregular as long as the war is otherwise just and urgently necessary; or if the Pope has authorised it. Similarly he accepted the idea that in exhorting others to take part in a war clerics are exhorting to courage and justice, not homicide.⁽⁵⁾ He objected however, to the idea that war can be waged against pagans on account of their

(1) 327. (2) 328. (3) 330. (4) 331. (5) 332.

idolatry or in order to defend God,⁽¹⁾ and gave some mundane interpretations of the religious wars of the Old Testament. Many infidels have more intelligence than certain Christians and are more apt at governing themselves; war might, however, be just when waged against cannibals and men worse than brutes, in order to give them human customs and good government. Suarez could find no just causes of war particular to Christian princes which have not their foundation in natural law, and which would not be applicable to infidels also.⁽²⁾

He stressed that once he has undertaken a war, the prince is obliged to explain its just cause to the enemy and demand a reasonable reparation, which should include restitution of what has been taken, repayment of all expenses caused by the injustice of the enemy, punishment and everything necessary for the assurance of future peace.⁽³⁾ Once war has begun any means short of killing of the innocent, may be taken to reach the desired end of victory.⁽⁴⁾

Molina (1536 - 1600)⁽⁵⁾ followed the general lines of thought of his period. Guilt he felt not to be essential for a just war. Objective injustice is sufficient, and he defined two types of it. When something is innocently taken by the 'enemy' so that the obligation of returning it proceeds from the thing itself, there is a sufficient justification for war, but when the damage or injustice is innocently caused in such conditions that the person

(1) 343. (2) 347. (3) 365. (4) 368, 377.

(5) Regout: La Doctrine de la Guerre Juste, pp.250 - 261.

or nation which commits the harm does not become richer for it, there is insufficient justification. Like most thinkers he agreed that a war could be subjectively just on both sides, that arbitration and resort to law were desirable but not essential, although he feared that if such matters were really looked into it would be found that at least one of the two sides would not be guiltless, in that they had omitted to examine and study the question most impartially.

There is evidence then, even among the theologians, of a growing lack of concern about the interior moral aspects of warfare, and a greater concentration on external issues. A just intention becomes no longer essential, and it is generally agreed that only the king need really bother to do all he can to make sure that his cause - let alone his intention - is just. There is a concession that if the subject is certain that the war is unjust he must not fight, but a rather contradictory reassurance that if he is in doubt his conscience is the responsibility of the king, so that it would most likely be a waste of time or inappropriate for him to enquire too deeply into the issue. This surely is a misplacing of responsibility and shews little respect for the moral rights of the individual. It is not true that the duty to obey compensates morally for doubt about the justice of the command.

Vitoria and Suarez both assumed too readily that there is no divergence between the rulings of natural and divine law on the question of war, and that this was Aquinas's position, but in fact

they accept only one of his interpretations of the command of individual non-resistance, and ignore the other. They err also in assuming that the state or public authority is necessarily sure to act more justly and impartially than an individual, particularly when the conscience of the state amounts to that of one or at most a few men. Such a situation is in itself unjust. It is going further away from tradition and Scripture to admit that civil law alone can justify the morality of armed defence or property, or that a mercenary can sell his services with his conscience. The distinction between exhorting to courage and exhorting to kill is unrealistic, as is that between killing and punishing.

The killing and mutilation of persons in the cause of the objective justice of a situation and for the sake of lands and property must also be immoral, yet more and more the question of the guilt of those so sacrificed becomes irrelevant. And the guilt of those who sacrifice them cannot be ignored simply by washing ones hands of punishment. When it is admitted that war can take place when the sovereign has only a slight degree of probable preference on his side, which means that there may be almost equal objective as well as subjective justice on both sides, it seems superfluous to talk about the justice of war. The justice on both sides must cancel itself out. The explanation that conscience can be clear when its doubt is only speculative is

over-subtle and not true. It should be admitted that in such circumstances justice also is speculative and uncertain.

The most progressive element in the thought of this period is the moreworldwide context in which war is considered. Scholars are at least beginning to consider the question in terms of international law and an international court even though the latter was not then in existence and eventoday is not entirely effective. It is stressed that war should aim at the good of the whole world, and there is constant reminding of the need for arbitration.

Among lawyers who were concerned with the justice of war were Lignano, Lodi, Lupus, Belli, Gentili, Arias, Alvarez, Guerrero and Ayala.⁽¹⁾

The champions of Belli (1502-75)⁽²⁾ and Gentili (1552-1608)⁽³⁾ vie with each other in attributing to their respective favourites the merit of having been the formative influence behind Grotius, or even of having surpassed him in originality and treatment of some aspects. In both Belli and Gentili there is a tendency to detach international law from its theological premises, though Belli's

(1) Salvioli. Grotius himself mentioned most of the writers, and

complained that they said very little, and that they confused natural law, divine law, the law of nations, civil law, and canon law, and failed to supply examples from history. Ayala and Gentili were recognised as having made some valuable contributions though Ayala, he noted, did not discuss the causes of war, and Gentili gave only perfunctory treatment of many important questions. (Prol.38.)

(2) Arrigo Cavaglieri. Intro. to De Re Militari et Bello Tractatus, by Pierino Belli, in The Classics of International Law, ed. J.B.Scott, pp.23a-28a.

(3) Phillipson. Intro. to De Iure Belli Libri Tres, by Alberico Gentili. The Classics of International Law, ed. J.B.Scott, pp.50a-51a.

Catholicism meant that in his work they are more strongly in the background. Even so, Arrigo Cavaglieri gives Belli the credit for being the first to attempt, in spite of traditional ideas and formulas, to treat international law as an independent scientific discipline, though based on natural law and reason.

Belli made a distinction between offensive and defensive war, Gentili a more detailed division. Both held that a war waged without prior declaration is unjust, and recommended that the conqueror be moderate in regard to conditions of peace. Belli would have prisoners protected from every kind of cruelty.

Both denied the right of a prince to decide a war by single combat, and ruled that a pact which would implicate an ally in an unjust war must be null and void. The idea of arbitration was important for both of them, and Belli held the belligerent who refused to accept the suggestion of the opposing side to seek arbitration, guilty of an unjust war.

Gentili is particularly praised for his positivism and practical common sense, his respect not merely for morality and courtesy but for binding law, and his interest in the political controversies of his day. Writing later than Belli, he paid no tribute to him, though both acknowledge their debt to Vitoria. Gentili, however, gave to himself the distinction of being the first to treat fully the subject.

Certainly Phillipson is convinced that his contribution was significant:-

"When we carefully weigh all these considerations and bear in mind the differences of the epochs of these two jurists, the greater difficulties attending the pioneer work of the earlier writer, the remarkable systematizing powers, moral force and enormous world-wide influence of the later, we can safely conclude that on the whole Gentili and Grotius are the two greatest contributors to the science of international law down to their day. It is unnecessary to pronounce which occupies the foremost place, but, whilst Grotius has been for some centuries universally apotheosized, it is strange that the earlier, dauntless, clear-eyed explorer and builder should have been so long neglected."

CHAPTER ELEVEN

THE JUST WAR IN GROTIUS.

By the time of Grotius, the world picture was very different from that of the time of Aquinas. There had arisen the large nation states, England, France, Spain, Sweden and the Netherlands. Any visible imperial authority over them or their rulers had weakened or disappeared, and all reformed states had repudiated the authority of the Pope. The doctrine of sovereignty was developing and rules for international matters could no longer

be regarded as rules for the individual morality of princes but had to regulate the intercourse of states, princes being regarded in their capacity as rulers of states. There was need and scope for something that could be called international law in the modern sense. The great task of Grotius was to attempt to construct such a system. There was no possible hope for a world government under a single ruler, all that could be hoped for was a set of rules which all rulers of states could commonly accept and follow. The main purpose of his great work was to persuade the world that there were such rules and thereby to prevent anarchy, war and unnecessary bloodshed.

The sources of and the power behind international law are many and varied and the object of controversy. Many who think that only the law of the state with its machinery of legislature, judiciary and executive to enforce it is law properly so called have often doubted and denied that international law is really law. Psychological propoganda is an important source of power for laws between nations and Grotius was indeed a propogandist, but there were other influences which inspired him. He was a devout Protestant and although not, like Aquinas, a religious, he was concerned to shew the relevance of Christianity to the matters under discussion. Aquinas's answer to the question of war was,

as has been seen, negligible and unsatisfactory. It was uncreative and ultimately in terms of secular politics. Grotius is renowned of course for his contribution to the science of international law, but it might be said that his concern was equally war, for he saw the former primarily perhaps as a means of preventing, controlling or breaking the inhuman forces behind the latter.

It is important to try and see the extent to which Grotius's understanding of international law, his Christianity and his ruling on war are related, and whether any differences between his own and Aquinas's thought on the subject are due to his Protestantism. Not only was he, like Aquinas, a follower of Christ's teaching, but he too inherited a belief in natural law and sought to reconcile them.

In distinguishing between the law of nature and volitional divine law Grotius however sometimes confounded them. One difference he noted is that the law of nature or reason has its direct authority in the intrinsic moral quality of any act, and so forbids, commands, judges or permits it, whereas volitional divine law has its source and reason in the will of God, who by

forbidding or commanding certain things makes them wrong or right.⁽¹⁾

Both laws, however, are divine, and are unanimous with regard to what they command and forbid; both are recognised by all good men as binding upon the conscience;⁽²⁾ both have their origin in the will of God, since He has willed us to possess these moral and rational principles and tendencies which shape our assessment of what, according to the law of nature, is obligatory or forbidden. And our reason tells us beyond all cavil, that we must obey the will of God.

Both volitional divine and natural law must be in fact essentially concerned with the intrinsic morality of human actions, although in volitional divine law the goodness of anything is more explicitly determined by the extent to which it is in accordance with the will of God, even though this requirement is by no means lacking in assessing the intrinsic morality approved by the law of nature. Since it would be impossible to consider that God could command a man to do anything intrinsically bad, the fact that Grotius believed that

(1) Bk I.ch.I.X.1-2; XV.1; Prol. 12.

(2) "All good men would agree that no-one should obey anything contrary to natural law or the divine precepts, for Plato and the Apostles confirm that to obey God rather than man is an undoubted rule written in the minds of all. And if such obedience results in our suffering injury we must endure it rather than resist by force." (Bk I. ch.IV.I.3.)

God could command 'homicide' or 'theft',⁽¹⁾ shews that the intrinsic goodness of an act is its confirmity with the will of God. This example emphasises that natural law, too, cannot be merely concerned with the outward form of an act. If it were it would be forced mechanically to condemn such apparent 'theft' or 'homicide'. Natural law must, once it has recognised the possibility of an overruling divine will, have as its primary criterion the extent to which anything is in accordance with the will of God. Natural law is bound to this condition and therefore subordinate to the volitional divine law. Reason is thus dependent on the will of God. The law of nature must also take circumstances and relationships as well as motives, into account in 'judging' an act, as it is as much concerned with moral quality as with formal appearance. It flows from principles and results in virtues.⁽²⁾

The confusion in Grotius's distinctions between natural law and volitional divine law⁽³⁾ leads to difficulties in his understanding of their working relationship. The root of the inconsistency is probably that his conception of natural law was too perfectionist. Its self-consistent integrity is either the fruit of its limitations or the easy, unreal perfection of an abstract conception, and

(1) Bk I.ch.I.X.6.

(2) Prol. 39; Bk I. ch.I.X.6.

(3) On the surface there appears to be analogy between the relationship of volitional and natural divine law, and the compromise of positivism and naturalism in international law. The analogy has significance in so far as the will of men expressed in common consent is at one with the will of God.

it is an integrity which is liable to be shattered when it faces and attempts to measure the complex and uncertain elements of human behaviour and experience, or when it is invaded by the immeasurable dimension of the divine in human life. If Grotius had admitted rather more imperfection in his definition of natural law, if he had allowed it more humanity, inadequacy and imperfection, he might have avoided certain inconsistencies in his application of it, and thereby made a distinction between natural law and divine law more significant and possible.

His understanding of human nature certainly allowed for this imperfection. (1) But natural law is absolutely unchangeable. (2) God cannot alter that which is bad into that which is good, and Grotius, like Aquinas, held that natural law itself is proof of this unchangeability.

Although the famous sentence:

"What we have been saying could have a degree of validity even if we should concede that which cannot be conceded without the utmost wickedness, that there is no God, or that the affairs of man are of no concern to Him." (3)

emphasises the independent perfection of natural law, it loses

(1) See pp 598-611 below.

(2) Bk I.ch.I.XII.1; Bk I. ch.I. X.5.

(3) ProI.11. See Gregory of Rimini (d.1358): "si per impossibile ratio divina sive Deus ipse non esset..." Grotius probably took the quotation, however, from Suarez who referred to it without approving. (De Legibus. Lib.II.c.VI.3.)

some of its force as proof of the 'agnosticism' of Grotius's understanding of it when it is seen in the context of his whole thought and religious attitude, which would have the force of at least underlining 'a degree'.

Grotius did not suggest that any serious discrepancy between the reason of God and of man is likely, and in this he was nearer to Aquinas than to many Protestants. Man's reason is limited, but the limitations do not affect the moral sense, as he is reckoned able to grasp the natural law fully.

Yet Grotius admitted that the scope of natural law is limited, as such inability to discriminate between the finer shades of moral values is an obvious imperfection in a moral law.⁽¹⁾ For what the natural law registers as 'permissible' merely can be altered by volitional divine or human law into commands or prohibitions. The permissible is, as it were, neutral ground which can be worked on or occupied by either divine or human law.⁽²⁾ It was to Grotius outside the sphere of natural law, so that divine

(1) *Ek* I. ch.II. V.I.

(2) Even that which Grotius considers merely permissible according to the law of nature might seem to some obligatory. He considers that a warning declaration of war is not obligatory, although honorable and praiseworthy. But surely it is the concern of the law of nature to do all possible to avoid a war.

and human law can never contradict it. But that which is permissible to natural law is like the logical - consequential child of its prohibitions and commands, and inseparable from the body of natural law as a whole. (1) Its being forbidden by a higher or a human law does in a way contradict it. If this prohibition can be accepted as the creation of a new natural law, this seems inconsistent with the idea that natural law is eternal and unchangeable. In one sense the principles of natural law are the only absolute elements in it, commands, prohibitions and permissions being equally conclusions from them.

Indeed elsewhere Grotius stated that the law of nature is directly concerned with what is permissible (2) and not only with commands or prohibitions (3) and certainly in relation to the question under discussion, Grotius almost identified natural law and permissibility:

"By entitling our Treatise 'On the Law of War', we mean, in the first place, as already said, to enquire whether any war can be just, and then what is just in war. For Law (jus), in this case, means simply what is just; and that in a sense negative

(1) And indeed Grotius himself does admit this when he agrees that certain things are said to be according to this law not in a proper sense but, as the Schoolmen say, by reduction, since the law of nature is not in conflict with them - so that things free from injustice are called just. See Bk I. ch.I. X.3.

(2) Bk.I. ch.II. I.3.

(3) Bk I. I.X.

rather than affirmative, namely that
that is lawful which is not unjust.(1)

It is much more difficult to maintain this distinction between what is forbidden and what is permissible, which is the only way Grotius can maintain the relationships of affinity and difference between divine volitional law and natural law, if it be granted that both laws are essentially concerned with quality of action. Quality, although it may admit of degrees, is more fluid and cannot so easily be separated into rigid categories of command, prohibition, permission.

The worst difficulty in reconciling these two laws of God arises because Grotius admitted that the law of nature is often morally inferior to the divine law as given for example in the gospel.(2) To say that one moral law is inferior to another higher moral law seems to imply that it is less good, less moral, indeed that it is by comparison, bad. One way of escape from this difficulty may be to take into account the different potentialities of different persons. Celibacy and the contemplative life may be higher than marriage and the practical life, but the majority of men are not able to live successfully a celibate life of contemplation; if they attempted they would fall into sin and

(1) Bk I. ch.i.III.I.

(2) Prol.50.

eventually into the sin of despair. It could thus be hazarded that God gives two sets of laws, one for the morally strong, the other for the weak.

It is similarly difficult to accept that God gives us simultaneously two contradictory laws, one of which permits something the other forbids;⁽¹⁾ but the difficulty may be met in the same way, by conceiving the commands as addressed to different classes of men.⁽²⁾ Or it may be met by regarding the law of nature as a stage of moral evolution, to be entirely replaced by the higher divine law once it has been given.

One might thus expect, on the hypothesis that man's moral conscience evolves, that the natural law and the divine law, of both old and new testaments, would each be appropriate for the time at which it was given, that the particular 'vocation' of each would be relative to its historical context and to the stage of moral evolution at the time. This does not appear to be so, however, for although since 'the law is a tutor to lead us to Christ' they might be harmonised into some evolutionary pattern of individual spiritual development, they are not similarly fitted into the moral development of the human race.

(1) 'It is not to be wondered at that some things which are permitted by the natural and the civil laws are forbidden by the divine law'. (Ek 11.ch.XX.X.1.)

(2) Such an explanation, however, is not so relevant to the question of war, because it would imply that a certain class of men is inclined by nature to killing. Once a man's nature is allowed to condition ethics, everything natural is justifiable. This is part of the strength and the weakness of the natural law theory.

For divine law has been with us from the beginning,⁽¹⁾ and in the view of Grotius is binding on all men, so far as adequately known by them. At times the first divine or natural law is described as so embryonic as to be hardly deserving of the title law at all.⁽²⁾ At other times, Adam is depicted as having a fairly detailed knowledge of virtue and vice.⁽³⁾ Elsewhere however it appears that Grotius thought that the first divine law has not been given to all mankind but only to the whole of mankind living at the time of Adam, because many primitive peoples have never received a law that they must worship God, and are to be excused for not doing so.⁽⁴⁾

Natural law, although coming from God does not invariably have anything to say about the worship of God,⁽⁵⁾ else being an innate, human law, it would be forced to condemn idolatry. But it reckons as impious merely and not erroneous the worship of men

(1) Bk I.ch.I.XV.2.

(2) Bk II. ch.II.II.1. The simplicity of the first races of men was proved by their nakedness. They were rather ignorant of vice than acquainted with virtue.

(3) "Now these laws, and also the law that brothers and sisters should not marry, the Jews think were given to Adam at the same time with the laws to worship God, to administer justice, not to shed blood, not to worship false gods, not to take what is another's." (Bk II.ch.V. XIII.5.) 'These, as the Jewish doctors teach, were bound to obey the laws given to Adam and to Noah, to abstain from idols and from blood, and some other matters...' (Bk I.ch.I.XVI.3.) 'And the Jews say that among the laws given to Noah, were precepts that not only homicide, but adultery incest and robbery should be punished with death.' (Bk I. ch.II- V.8.)

(4) Bk II. ch.XX.XLVII.4.

(5) Though the business of the first races is described as being the worship of God in Bk II.II.II.I.

'whose life was marked with wicked deeds',⁽¹⁾ and does not judge such worshippers worthy of human punishment. It is not that these men are ignorant of the law of nature because apart from it being an innate and universal law they sometimes worship the 'souls of those who have been pre-eminent for their virtue and their ben factions to the human race'. God obviously must desire and command the highest goodness for us, if only as an incentive, though also He must prefer that which is better, even if not best, rather than the worst. There is no compulsion in the command of God, since God cannot will man's moral perfection, He can only desire it, and He can surely not desire what is morally inferior.

One of the dangers of having two moral laws is that natural law, by professing to be 'divine' while permitting certain things which are contrary to the true divine law, may hinder obedience to it, by giving the sanction of law and morality to something not utterly good, thus misleading and wrongly satisfying the conscience. This adds to its own immorality, for even natural law obliges us to strive for the highest good and condemns anything which, even though lawful in itself, hinders a greater moral good.⁽²⁾

(1) Bk II. Ch.XX. XLVII.4.

(2) "Even if the thing promised be not unlawful, but something impeding a greater moral good, the oath will not be valid; because we are bound by God to aim at a moral progress; so that we may not take this liberty for ourselves." (Bk II.ch.XIII.VII.I.)

Grotius thought that by comprehending and morally overwhelming the Old Testament, the New Testament has made the Old as far as moral precepts and teaching are concerned, in a certain sense redundant.

What was commanded by the Law of Moses, he regarded as upheld by the Gospel, so the former stands in the same relation to the Gospel as does the law of nature.⁽¹⁾ The part of the law of Moses which is different from the law of nature was that which was of unique relevance to the Jews,⁽²⁾ and Grotius used the fact that certain Mosaic laws regarding judgement and punishment were still accepted during Jesus' lifetime and apparently tolerated by him, as proof that similar human and political laws have equal authority.⁽³⁾ And yet he allows that certain Mosaic Laws, particularly those relating to punishment Christ did not tolerate but contradicted,⁽⁴⁾ as in Matthew V.2., inasmuch as he enforced what were recommendations to the Hebrews with greater breadth and depth. Grotius was here not very consistent, though perhaps it should be said that Christ himself appears not to be so.

Grotius, however, made a further distinction between what divine law enjoins and what it recommends, although he stated

(1) Bk II. ch.XX.X.8. 'The New Testament... in its teaching respecting the moral virtues enjoins the same as the Old Testament or even enjoins greater precepts.' (Prol.48) Bk I.ch.I.XVII.1 - 4.

(2) Bk I. ch.I. XVI.7.

(3) Bk II.ch.XX.X.8.

(4) "The Hebrew Law permitted men to revenge the graver injuries, not by their own hand, but by recourse to the judge. Christ, however, does not permit the same to us; as appears by the opposition, "Ye have heard it said - But I say unto you." (Bk II.ch.XX.X.2.) Also see Bk I. ch.II.VI.3 - 5)

also that he used the New Testament to explain what is (finally no doubt) permissible to Christians. What divine law recommends, however, was not reckoned by him as obligatory or punishable if not followed,⁽¹⁾ even though other disobedience or sin is more heavily to be punished than before the Gospel was given.⁽²⁾ It seems inconsistent and even unchristian that we are not to be held seriously guilty for neglect of these laws which are formally recommended rather than commanded. In the context of a relationship between God and man a distinction between what is recommended and what is commanded is hardly possible, especially as the Gospel contains the command 'Be ye perfect' which must comprehend all 'recommendations'. The idea that we may hope for praise if we strive after the highest excellence, without expecting blame or punishment if we fail to do so, is not only illogical but reveals an inadequate realisation of the sinfulness of human nature, though it is true that the civil power may not be the appropriate administrator of such punishment. Christians are capable of and achieve varying degrees of goodness, but all are called by Christ to the same excellence of life, a peasant as much as a Pope or monk. The distinction Grotius drew between what is 'merely Christian' and what 'of conspicuous holiness' seems indeed unchristian.⁽³⁾

(1) Prol. 50.

(2) Bk II. ch. XX. XI. I.

(3) Bk I. ch. II. X. 9. (See p. 595 below)

But here, of course, he followed tradition.

Grotius gave examples of actions, such as second marriage, which are 'laudable, excellent, very agreeable to God, but are not required of us by any law of necessity'.⁽¹⁾ How according even to reason, anything can be very agreeable to God yet not required of us is curious. The examples prove that once God has been introduced into a human life even divine rules of command, prohibition and permission are inadequate as guides for moral conduct which must flow from the total situation of the human being in his unique relationship to God. Grotius made a point of dissociating himself⁽²⁾ from those who claim that the Gospel adds to the law of nature only ordinances relating to faith and sacraments. He did not hesitate to point out how inferior to Christian morality justice can be, and he resisted the idea that we are not bound by the laws of Christ beyond the limits of obligation imposed by the law of nature. He criticised those who make an effort to prove that what the Gospel forbids is forbidden also by the law of nature and pointed out how, for example, the Gospel, though not the law of nature, enjoins us to expose ourselves to the danger of death for others, and approved the quotation of Justin Martyr, that 'to live' according to nature is the condition of him who has not yet come to believe.'⁽³⁾

(1) Bk I. ch.II. IX.3; Also see Bk III. ch.IV.II.I.

(2) Bk I. ch.II. VI.1.

(3) Bk I.ch.II. VI.2.

He admitted that the Gospel makes more demands upon us than does the law of nature: the latter, and even many theologians, he stated, teach that we have a right to kill a man in defence of property, but noted that the Gospel forbids this, and how worthy of praise is the man who prefers to be killed rather than to kill.

Similarly, he noted that the law of nations sometimes permits capital punishment for the sake of individual or public good, but thought this unsafe for a Christian, who should follow Christ's teaching not to judge.⁽¹⁾ It is a Christian, if not a human duty, willingly and freely to forgive offences.⁽²⁾

In discussing the relevance of Biblical revelation to the questions of war Grotius was able to find much confirmation of its justice in the Old Testament, which records many divine wars. Deceit,⁽³⁾ both the slaughter of women and children⁽⁴⁾ and also the exempting of women, infants or virgins from such punishment⁽⁵⁾ the use of spies,⁽⁶⁾ and taking of spoil and retaining of booty and the rendering of a portion of it to God⁽⁷⁾ are all guaranteed

(1) Bk II.ch.XX. XVI.

(2) Bk II. ch.XXIV. III.I.

(3) Bk III ch.I.

(4) Bk III ch.IV. Psalm 137 is quoted.

(5) Bk III. ch.XI.

(6) Bk III. ch.IV.

(7) Bk III.ch.XVI.

as good, as are pacts for mutual aid between religious and pagan nations. God is revealed as punishing wicked men and even rejoicing over their destruction, mocking and laughing,⁽¹⁾ although since the actions of God are different from those of men the latter ought not to do each other harm except for the sake of some good to be allowed. With God the case is different, the action of God may depend on His Supreme Right and Authority.

The saying 'Whoso sheddeth man's blood, by man shall his blood be shed',⁽²⁾ proves, he reckoned, that God allows the punishment of homicides and other criminals.

Grotius's most insistent argument for the permanent validity of the Mosaic Law which established such punishment, was that it continued during and after the life of Christ. He stressed that although Christ gave different precepts, he did not destroy the Law, and if His precepts could stand with the law of Moses which accepted capital punishment, they could also stand with human laws which do the same. He suggested that the great mercy of God shown in the New Covenant is especially applicable to those sins committed without knowledge of the Gospel.⁽³⁾ Transgressions committed after this are likely to bring upon sinners much more severe judgements than those instituted by Moses. The Gospel, then, he saw as occasioning the intensifying rather than the abolishing, of punishment.

(1) Proverbs 1.26; Isaiah 1.24.

(2) Genesis IX.5 - 6.

(3) Bk II.ch.XX.X.8.

Nowhere did Christ or His Apostles speak of the cessation of the Mosaic Law. Christ stated that He had come not to destroy but to fulfil the law, but if Christ had forbidden the capital punishment of murderers He would have destroyed the law.⁽¹⁾ Paul, indeed, explicitly stated that the High Priest was appointed to judge persons according to the law.⁽²⁾

Grotius made a very significant point in stressing several times that the absence of any clear and explicit teaching of Jesus on such a grave issue as war suggests that He had nothing original to say; what is relevant in His teaching is either very general or obscure.⁽³⁾

Such teaching would have been particularly appropriate at the conversion of Cornelius, but there is no proof that he was instructed by Peter about the unchristian character of his military life. Similarly Grotius argued that if fuller teaching on war had been given orally to the apostles, some record of this would have been established in the tradition of the church, which would not universally have deserted it. He pointed out that of all the bishops who had suffered intensely for their religion at the time of Constantine, not one attempted to rebuke him for condoning capital punishment or military service. The Church

(1) Bk I. ch.II. VII.8.

(2) Acts. XXIII.3.

(3) Bk I. ch.II. VII.6.

supported war, and although Tertullian and Origen sometimes appeared to denounce Christian warfare, they were inconsistent and in other sections of their work praised it. The denunciation, he thought in any case referred more to the idolatrous practices associated with militarism at that time, and such writers also were very individualistic - they 'like to go in a path of their own' (1)

Grotius thought that it was because the early Christians were animated by so ardent a desire for what was best that they often accepted the divine counsels as if they had been commands. Grotius himself accepted the ban on Christian participation in warfare as 'laudable, excellent and very agreeable to God' (2) but not as necessary or obligatory. And quoting Ambrose who writes in his Seventh Sermon that 'It is not soldiering which is a sin but soldiering for plunder' and in his Duties 'The courage which defends our country from barbarians abroad or the helpless from harm at home, or society from robbers, is complete justice' he concluded, 'This argument seems to me so strong that I require nothing more.' (3)

The fact that clerics were specially forbidden warfare only proved to him that non-clerics were not so forbidden. (4)

(1) Bk I. ch.II. IX.2.

(2) Bk I. ch.II. IX.4.

(3) Bk I. ch.II. IX.9.

(4) Bk I. ch.II. IX.9.

On the other hand, Grotius honestly accepted and praised the superiority of the Gospel's teachings, and recommendations. One difference between the kingdom of Christ and other kingdoms is that the former cannot be defended by arms. He acknowledged that it is our duty as Christians to forgive willingly and freely all offences against us, as Christ forgave our offences. He emphasised that even when we have a right to fight a just war, it is mostly more pious to give up one's rights for it is particularly suitable for Christians to sacrifice even their lives in order to further the lives and salvation of others and in so doing to imitate the perfect example of Christ who died for us while we were unwilling and hostile, which is a reason why we should not pursue our rights or dues to the inconvenience of others to so great an extent as is inevitable in warfare.⁽¹⁾ Elsewhere he remarked that although Christ died for us not all the acts of Christ are such as proceed from a law or make a law for us.

In some cases abstention from pursuing our rights is not merely praiseworthy but a duty, and in some cases even if we are attacked we should prefer the salvation of the assailant to our own life because Christ requires that we love our enemies and because the assailant may be a man who is of great value to the

(1) Bk II. ch. XXIV. He made another distinction later between that which is legal and that which is just in international morality, and although he did not consider Christian teaching as applicable to states, he thought they should follow true justice. See pp. 623-625 below.

community. Here he claimed that if Christ enjoins us to give up some things in order to avoid strife, how much more must he want us to give up greater things in order to avoid war.⁽¹⁾

Elsewhere, though, in discussing the relevance of the Sermon on the Mount, he followed the interpretation which stresses that the teaching about non-resistance was deliberately limited to trivial injuries and to situations where non-resistance does not involve much inconvenience. Otherwise Jesus would have specifically said, "Resist not an injurious aggressor but give up your lives rather than use arms." Jesus might have us walk the extra mile but would not expect us to walk 100 miles. He might ask us to give up a coat or cloak but not our means of livelihood. Such teaching was he thought in any case addressed not to public authorities but to individuals.⁽²⁾

The Hebrews too were asked to love their neighbours, but at the same time their law pronounced capital punishment for murderers. The Gospel does demand a greater love, but even such love should discriminate in favour of the innocent. Even God, who sends His sun and rain on the just and unjust alike, punishes, and it is this love of the innocent which occasions capital punishment and wars.⁽³⁾

(1) Bk II.ch.XXIV.11.3. Similarly he argued that since Christ commands us not to hurt the person who strikes us, how much less may we kill him? (Bk II.ch.I.X.1.)

He also said "...for if Christ directs us to give up our coat and cloke, and Paul, to suffer unjust loss, rather than have recourse to the bloodless contest of law; they would have directed us to give up things of greater value, rather than put to death a man, the image of God, and sprung of the same blood as ourselves." (Bk II.ch.I.XIII.1.)

(2) Bk I.ch.II.VIII.3-5.

(3) Bk I.ch.II.VIII.10-11.

Grotius followed Aquinas in noting that Paul distinguished between punishment for the sake of the public good, which the magistrate inflicts in the place of God, and which is indeed God's vengeance, and the passion of revenge, which He had always condemned. God raised up Christian emperors for the defence of His Church.

The 'powers that be' are ordained of God and government is a pious office though held by impious men.⁽¹⁾ Romans XIII proves that taxes are right, and if taxes, arms.⁽²⁾ Paul, in saying 'if I be an offender or have committed anything worthy of death I refuse not to die', proves the goodness of capital punishment. In Revelation the wars of the righteous against the wicked are predicted with approval, and indeed punishment and defensive war come under the virtues of justice and well-doing.⁽³⁾ Paul accepted the protection of soldiers, and John the Baptist approved of them. Grotius went to lengths to prove the oneness of Jesus and John on this point.

Such epistles as that of Leo which rule that one may not return to a military life after an act of penitence, he thought not really relevant, since penitents, like clerical persons and ascetics were required to lead a life not only Christian but of

(1) Bk I. ch.II. VII.4.

(2) Bk I. ch.II. VII.12.

(3) Bk I. ch.II. VII.15.

eminent purity.⁽¹⁾

In discussing the relevance of Peter's sword he stated that Jesus' command 'Buy a sword' is a proverbial saying and that the remark shows merely what was customary in those days and what the apostles thought lawful. When Jesus rebuked Peter for using it, He was condemning revenge but not defence. Romans XII. 17 similarly condemns vindictive but not self-defensive conduct.⁽²⁾

Grotius did concede, however, that God, who has absolute right over our lives, might have demanded from us forbearance to such an extent that even when brought privately into danger we should be bound to allow ourselves to be killed rather than to kill. Whether He did so intend seemed uncertain to Grotius, though he thought such forbearance not obligatory, as in the Gospel we are told to love our neighbours as ourselves, not better than ourselves,⁽³⁾ and the Gospel does not forbid us putting our own safety first when there is common danger.⁽⁴⁾

There is no doubt that Grotius thoroughly approved of the right of conscientious objection and thought that even when wars are just, Christians who are unwilling to fight should be excused.

(1) Bk I. ch.II. X.9. (See p. 586 above)

(2) Bk I. ch.III. III.6 - 7

(3) Bk I. ch.III.III.3.

(4) Bk I. ch.III.III.1-3

To abstain from lawful military service is particularly holy, and traditionally followed by ecclesiastical persons and penitents; it is to be recommended to all others, and he noted how Origen in Contra Celsum, called all Christians priests, following Revelation 1.6 and 1 Peter II.5.⁽¹⁾ Christ's kingdom he reckoned as being of a different nature from earthly kingdoms. It is accepted that the earthly king should use force, but in this he is unlike a bishop.⁽²⁾ On the other hand the opinion that arms are forbidden to all Christians, such as was held by John Ferus and Erasmus, he reckoned as quite extreme and although motivated by a desire to balance the weight of evil, unwise. War is, however, not one of the acts of life, it is essentially inhuman, and so horrible that only the highest necessity or the deepest charity could make it right.

The New Testament teaching on non-resistance was applied most definitely by Grotius, as by Aquinas, to the duties of subjects towards their rulers. Such non-resisting he reckoned as an obligation, and absolute submission to the ruler as absolute submission to God, even though this ruler be a tyrant.⁽³⁾ The early Christians he said did not deviate from this rule for they never joined in any rebellion against the most wicked emperors. Christ counselled flight to Christians who are in danger of death,

(1) Bk II. ch.XXVI. V.1-2

(2) Bk II. ch.XXIII. XIV.3.

(3) Bk I. ch.IV. IV-Vii.

Peter says that Christ has left us an example and we are to rejoice if we suffer as Christians.⁽¹⁾ By such patience the Christian religion grew strong, as when the Theban legion refused to resist and was decimated for refusing to sacrifice. He who loses his life saves it.

The killing of the innocent was likewise forbidden by the Gospel, and also the murder of him who is preparing to kill. Christ commands us to take a buffet rather than to hurt our adversary, so how much less may we kill him.⁽²⁾ Neither may we kill in defence of our property unless it is something on which the life of ourselves or our family depends.

(1) I Peter II.21; I Peter IV.12 - 14.

(2) Mk II. ch.I. X.I.

In spite of his conceding superiority to the Gospel recommendations of love and non-resistance Grotius's own standpoint, that some warfare can be right and just, was that of natural law. ⁽¹⁾

Grotius's natural law teaching however rests on a questionable understanding of human nature. It is not easy to follow his distinctions between the spiritual rational and animal elements, nor was he clearer about the relation of nature within man to nature without. Moreover, he did not allow that sin touched and weakened the power of reason, whose omniscience in moral matters he took for granted, without marking its bounds or the danger of its moving in a wrong direction. Without modern biological and psychological knowledge Grotius could hardly have avoided what must appear to us such vagueness in handling human nature and human reason, and his wide and many-sided usages of the word nature only shew how hard it was for him to deal with them within the scientific framework and terminology of his own day. Although Grotius held that clear-thoughted speech is one of man's distinguishing marks he himself used nature to mean at different times the law of nature, the good in human nature, the bad in human nature, and all of human nature. But Grotius was only like Aquinas and other writers of the past in that he had to use old fashioned tools.

(1) See p. 591 above.

For although Grotius defined natural law as that law which is based on and in accord with what he considered as the 'best' elements in man, that is, those which are distinctively human, such as sociability, reason and moral sense, and not on human nature as a whole, since that contains bad elements, his explicit statements often identified the law of nature with the whole nature of man.⁽¹⁾ At times he even singled out one of the less worthy tendencies, such as ruthless self-assertion, as quite in accord with natural law, and ruled that acts unavoidable to human nature cannot be punished by men, noting that certain philosophers deem sin to be natural.⁽²⁾

He did not try to explain how the fear, the allurements of immediate pleasure and rash impulse⁽³⁾ which he acknowledged as existing in man, could be truly part of man's rational nature since they are obviously contrary to it. And since 'to God as our Creator... we owe all that we are or have', Grotius should not have used the fact that God is the creator of human nature as guarantee of the perfection of its descendant, the law of nature, because, presumably, the animal impulses and instinctive passions

(1) "For, as we have said in the beginning of this book, it is enough, if anything is contrary to human nature, to prove it unlawful." (Bk II.ch. V.XII.3.) "For the Mother of Right, that is, of Natural Law, is human nature". (Prol.16.)

(2) Bk II. ch.XX.XIX.1.

(3) "... we may understand that it is congruous to human nature to follow in such matters also, a judgement rightly framed; not to be misled by fear or the temptation of present pleasures nor to be carried away by blind and thoughtless impulse; and that what is plainly repugnant to such judgement, is also contrary to Ius, that is to Natural Law." (Prol.9.)

were created by Him too, and many of these are bad. He implied that these bad tendencies are solely man's responsibility, but if this is so they might be described as no less essentially and distinctively human than the moral and rational tendencies. In any case, since the 'animal' passions are the worst human elements, it is likely that man is as innocent of their origin and existence as are animals, although he has the responsibility of controlling them once his reason and moral sense tell him to. And although Grotius's own opinion is not necessarily to be identified with that of the writer he quoted, he seems to have agreed that wrong may have a purely external origin, and that morality is more or less the art of avoiding it.⁽¹⁾ On such an interpretation, therefore, sin as such, arises from the misuse of reason. Freedom, he seemed to think no innate quality or possession of man. Man is not a slave by nature, but he is not by nature a creature that cannot be a slave. His position in relation to freedom or slavery is neutral.⁽²⁾

It is not clear where Grotius drew the line between bad and

(1) "To return to the point whence I started, the truth is that some virtues do tend to keep passions under control; but that is not because such control is a proper and essential characteristic of every virtue. Rather it is because right reason, which virtue everywhere follows, in some things prescribes the pursuing of a middle course, in other stimulates to the utmost degree... With truth, therefore, it was said by Aulus Gellius, that there are some things of which the extent is limited by no boundaries - the greater, the more ample they are, the more excellent Lactantius, having discussed the passions at great length, says 'The method of wisdom consists in controlling not the passions, but their causes, since they are stirred from without. And putting a check upon the passions themselves ought not to be the chief concern, because they may be feeble in the greatest crime, and very violent without leading to crime.' "(Prol.45)

(2) Bk II.ch.XXII.XI.

good. At one point it seems that he identified unselfishness with what is good, and therefore in accord with the law of nature and justice. But generally he seems to have thought a balance between selfishness and unselfishness sufficiently just. At times he even justified straightforward self-seeking. Grotius did not dispute Carneades' reasoning that there can be no moral law of nature where there is only self-seeking, but he tried to prove that man, in fact, is both selfish and unselfish, and thought that to answer Carneades he need only prove that he is not wholly selfish.⁽¹⁾ Justice, therefore, he thought really identifiable not with unselfishness, but rather with a balance of selfishness and unselfishness.⁽²⁾ But Grotius did not say how such a balance was to be achieved, or remark on the dangers of such a theory. Indeed, although a harmony of mutual interests in society is a possibility, so too is open conflict, or a balance which is nothing more than a stalemate. This use of sociability as a proof that man is not self-seeking fits very awkwardly with his other belief that mutual self-seeking is of the nature of all human social structures.⁽³⁾

(1) "And among these properties which are peculiar to man, is a desire for society, that is, a desire for a life spent in common with fellow-men, and not merely spent somehow, but spent tranquilly, and in a manner corresponding to the character of his intellect... And therefore the assertion, that, by nature every animal is impelled only to seek its own advantage or good, if stated so generally as to include man, cannot be conceded." (Prol.6.7.8.)

(2) Later he proved that justice is not folly because it serves the interests of the self.

(3) "But Natural Law is reinforced by Utility. For the Authors of Nature ordained that we should, as individuals, be weak, and in need of many things to make life comfortable, in order that we might be the more impelled to cling to society." (Prol.16.)

Sociability, therefore, may indeed be a mere cloak for self-interest, and be more inspired by the desire of gain rather than by the desire to give. And in man the gregarious instinct may often be in conflict with his spiritual nature. Indeed it seems that the law of nature to some extent, and human laws to an even greater, are necessitated by the anti-social tendencies in man, some of which impel him to seek and exploit society for his own benefit, some of which spring out of the state of society, too close proximity to others causing strife and immorality. As Freud emphasised in Totem and Taboo the existence of any law is a proof of a tendency to disobey it.

Grotius can hardly have believed that the social impulse in itself necessarily leads to social harmony, nor that it is sufficient to bring it about since he allowed the need for coercion:

"Truly we cannot doubt that generally we do attain to this good (public tranquillity) through the agency of the powers of government, for no-one wishes to bring harm upon himself, and the good fortune of the ruler consists in the good fortune of the subject. 'May there be those whom you rule' one of the ancients said. Among the Jews there is a proverb, 'If there were no public Authority, men would swallow one another alive'. The same thought is found in Chrysostom, in 'If there were no rulers of states, we should be living a life more wild than the life of wild beasts, not only biting one another, but devouring one another' ".

Indeed, he often allowed that the nature of man is much more

self-seeking than altruistic,⁽¹⁾ and that it is therefore morally right to be selfish. In danger he thought it perfectly permissible to prefer one's own life and interests to those of others.

The natural social tendencies, then, are not a reliable source for a moral law, neither is man's self-centred individualism, however much the latter may have appeared to Grotius to be based on the right of the individual to life. The 'right of the individual to life' is different from 'the right of the individual to defend himself', for this may be done at the expense of the right to life of others.⁽²⁾

That Grotius really meant preserving one's own life rather than preserving life is proved by the fact that according to 'explicative justice', which is identifiable with the law of nature, one may take life in order to recover stolen property.⁽³⁾ Here life as such is no longer the first consideration. Grotius believed

(1) "And certainly if we only look at Nature that cares much less for ties of society than the defense of the individual." (Bk II. ch.I.IV.)

(2) "And this right of defence arises from the natural right of self-protection, not from the injustice or fault of another who makes the danger. And therefore this right of self-protection is not taken away, even if the aggressor be blameless." (Bk II. ch.I.III.)

(3) "If we regard corrective justice, I do not deny that in order to preserve our goods, the robber, if need be, may be killed:... whence it follows that if we regard Natural Law alone, the thief flying with his plunder may, if the goods cannot otherwise be recovered, be slain with a missile." (Bk II. ch.I.XI.)

that slaying in self-defence is permissible by the law of nature, and that death may be dealt even to ward off an ominous, threatening assault.⁽¹⁾ Nature has its own ruthless power and authority.⁽²⁾

The right and good of society, however, are allowed to overrule individual reckonings on occasion.⁽³⁾ If this were taken as a general principle it would limit or even negate some individual rules elsewhere sanctioned. Grotius, indeed, insisted that regard for society, as distinct from natural instinct, is a qualifying principle of natural law.

In relating self-defence to self-preservation in general, Grotius took the definition of the first principles of nature from Cicero, who stressed the right of self-preservation; and went on to outline the 'organic relationship' between this primitive instinct and the law of nature.

The first principle of self-preservation 'commands us to right reasons'. Yet reason ought to be more dear to us than the instinct of self-preservation, which implies that reason does

(1) "For although a buffet and death are very unequal yet he who is about to do me an injury, thereby gives me a right, that is a moral claim against him, in infinitum, so far as I cannot otherwise repel the evil." (Bk II. ch.I.X.I.)

(2) "Nature is conceived to give a right to do everything without which that cannot be obtained which nature demands." (Bk II.Ch.V.V.)

(3) "On the other hand, it may happen that because the life of the aggressor is useful to many, he cannot be killed without sin, and that not only by the divine law, but by Natural Law." (Bk II.ch.i.IX.I.)

not unconditionally support it. It seems that the law of nature as understood by Grotius was really a compromise between primitive natural instinct, and the moral demands of pure reason; although not so precise or scrupulous as divine and human law, it was for Grotius obviously superior to the authority of pure instinct.

All wars, for example, are justified by the first principles of nature,⁽¹⁾ whereas only those which are not in conflict with the nature of society are justified by the law of nature.⁽²⁾

In the first case reason has not advanced beyond simple approval of a mere instinct, and from the point of view of a single individual; as war is a social activity, it cannot be justified from a purely individual outlook, for reason would show that only those wars are justified which save more lives than would have been saved if they had not been fought. Justification of this instinct alone, apart from its relation to war, is only possible if nature is considered ambiguously and non-rationally, for in nature as a whole the instinct to preserve life is partly used to destroy life. In war the end is not necessarily the preservation of life and limb at all, but the preservation of one's own life and limbs,

(1) "In the first principles of nature there is nothing which is repugnant to war; indeed all things rather favour it: for the end of war, the preservation of life and limb, and the retention or acquisition of things useful to life, agrees entirely with that principle." (Bk I. ch.II.1.4.) Professor Hart sees in the need and will to survive one indisputable element of the law of nature, which depends on and justifies human laws and social institutions. (H.L.A.Hart: The Concept of Law, p.187.)

(2) "As we have said above, that when we examine concerning Natural Law we inquire whether, anything can be done not unjustly; and then that is understood to be unjust, which has a necessary repugnance with a rational and social nature." (Bk.I. ch.II.1.3.)

which is not only a different aim, but one which may have contradictory results. War has not only an aim but also a result, and even though the former may be consistent with the first principles of human nature, the latter may lead to the very opposite of what is sought. The self may be killed or hurt as well as or instead of others. As war involves the intention of mutual killing, it can hardly be said that there is nothing in it which opposes even self-preservation. Modern psychology would hold that homicidal and suicidal tendencies are very powerful, and the desire for death present as well as the desire for life. Man is both worse and better than the animals and men do not always seek the preservation of their own lives or even the life of others or life as a whole. They may fight for ideals, property or a way of life. The preservation of their own lives is to some, therefore, incidental.

Grotius did not think the law of nature prohibited war unconditionally, but only those wars which are in conflict with society and which attempt to remove human rights.⁽¹⁾ He agreed, however, that war can be fought against those who sin against nature

(1) "Again, right reason and the nature of society, which are next to be considered, do not prohibit all force, but that only which is repugnant to society; that is, that which is used to attack the rights of others." (Bk I. ch.II.1.5.)

in contrast to the opinions of Vitoria, Vasquez, Azorius and Molina.⁽¹⁾

He said little about how the world outside man is governed, although he believed it to be created by God. But in animals, and in men who are not fully mature, it would seem that the 'extrinsic reason', presumably of God, works only inconsistently; some activities in the universe, are not governed by reason alone,⁽²⁾ which implies weakness in organisation or the human power to understand it even in the world of nature. Sin or imperfection outside the human mind seems not to have occurred to him.

Grotius set too great store by reason alone. Man has, he said, a power to estimate the consequences of his actions, which is the source of justice.⁽³⁾ But he did not allow for the unknowability of the future, the many dilemmas caused by man's inability to forecast consequences and his imperfect power to analyse moral situations. The relation between reason and the moral sense he assumed rather than explained, and he nowhere thought out the connection between the knowing and the doing of what is right in

(1) Bk II. ch.XX. XL.4.

(2) Indiscussing the objection of Carneades that justice is not to be found in nature Grotius did not deny that animals are mainly motivated by self-gratification, though he claimed that this is tempered by a limited altruism which proceeds from extrinsic reason but with other acts this is not so. (Prol.7.)

(3) Prol.9.

moral terms. Although the inadequacy of the law of nature is not explicitly emphasised, it is often revealed. It is inadequate as a judge of many human actions, ⁽¹⁾ particularly of those sinful acts inevitable to human nature. This is a human concession, but it introduces a consideration which, if thoroughly applied by the moral reason, would not only undermine its authority as judge, but also its absoluteness of form, since any law or moral judgement would then have to be relative to the uniqueness of the individual. ⁽²⁾

Human nature itself is a hindrance to the efficiency of the law of nature, not only because of its intangibility of motive, but because of the complexity of human action. ⁽³⁾

Sometimes the law of nature is hardly rational at all, cohabitation being sufficient to constitute a natural marriage. ⁽⁴⁾

Grotius's understanding of human nature was awry when he implied that polygamy but not polyandry is permissible according to natural law. Apart from the fact that here 'natural law' seems based purely on instinct rather than on reason, there is

(1) Bk II. ch.XX. XVIII, XIX, XX, Bk II. ch.IV. III.

(2) "Then again there are other acts which are inevitable, not to human nature properly, but to this particular person at this moment, on account of the constitution of the body affecting the mind, or inveterate habit." (Bk II. ch.XX. XIX.)

(3) "... not everything which is contrary to the Law of Nature is void by Natural Law..." (Bk II. ch.V. X. I.)

(4) Bk II. ch.V. VIII.2.

no biological or psychological justification for the idea that man is polygamous rather than monogamous by nature, or that even if man is polygamous, woman is not polyandrous. (1)

Sometimes the law of nature is in perfect accord with pure instinct. (2) Yet at times natural law is not wholly identified with what is natural. For example, although punishment in the sense of vindication is permissible by natural law, the feeling tone which accompanies it - 'vengeance', is rejected as an animal passion. Yet though it can be done in theory, it is not easy to separate these psychologically, particularly since the feeling is sometimes considered as the inspiring force of the act. Animals certainly act vindictively, but we cannot measure their feelings. It is probably man who is more liable to indulge in feelings of revenge. The distinctively bad is often the distinctively human, for human nature is not a mere joining of animal nature and reason.

On the question of punishment, (3) Grotius was not always consistent as to the ruling of the law of nature. Sometimes he said punishment is only justified if it is preventive, or for the

(1) Bk II. ch.V. VIII. See above p .273

(2) "Therefore, he who is the cause of a man's existence, ought, as far as he can and as far as is necessary, to provide him with the things necessary to human life, that is, natural and social life." (Bk II. ch.VII. IV. 1 - 2)

(3) Bk II. ch.XX.

the future improvement of the offender, or for the good of society and so on. Elsewhere he wrote :-

"... moreover among those things which nature itself declares are permissible and not sinful are those, that he who does evil shall suffer evil." (1)

And he seemed to assent to this latter view more whole-heartedly and often. Perhaps the paradox is best expressed in the statement that 'Every punishment... contains something which, viewed in itself, is opposed, not indeed to justice, but to regard for others'. He believed that even if the cause of war is not punishment the just side should have the power of inflicting punishment in a just war. Revenge itself is irrational and opposed to natural law, (2) but vindictive punishment even though it is an innate power and not a rational opinion is not; it is 'that by which in defence or vengeance we repel force and insult from us and those who should be dear to us, and by which we punish offenders.' (3)

Finally, Grotius's understanding of natural law was weak because he did not really reckon with sins of omission. It is, as Grotius himself admitted, a mainly negative law. Yet the essential evil of human nature is most manifest in sins of this kind. We are not to punish actions which are contrary

(1) Bk II. ch.XX.12.

(2) "... for anger is, in brutes as in man, a heat of the blood arising from the desire of revenge, which appetite is irrational... but such an appetite considered in itself, does not correspond to our rational part,.... and consequently, not to Natural Law..." (Bk II. ch.XX.V.1-2)

(3) Bk II. ch.XX.VIII.2.

to the virtues in regard to which nature rejects all such compulsion, such as mercy, liberality, gratitude,⁽¹⁾ even presumably when the neglect of such virtues may lead to great suffering or starvation:

"Thou shalt not kill; but need'st not strive
Officiously to keep alive:" (2)

His idea of natural law was in theory sometimes too divine and sometimes too human while in practice it was often too human,⁽³⁾ although not, perhaps, in the sense that the fullness of human nature, from its depths to its heights, has been included.⁽⁴⁾

(1) Bk II. ch.XX.XX.1.

(2) A.H. Clough: The Latest Decalogue. And yet Grotius calls wrong "... every fault, either of doing or of omission, which is at variance with what men ought to do..." (Bk II.ch.XVII.1.)

(3) "If anyone be in danger of receiving a buffet, or the like evil, some hold that he has a right to protect himself by killing his enemy. If merely corrective justice be regarded, I do not dissent." (Bk II. ch.I. XI.)

(4) "Again, who can say that such a precept as that in I.John. III.16: 'We ought to lay down our lives for the brethren' is binding by the Law of Nature?" (Bk I.ch.II. VI. 1.2.)

Human Laws and the Law of Nature.

In spite of its weaknesses, however, natural law is the chief moral power behind human laws.

Civil law, municipal law, positive law, international law are all, according to Grotius, branches of 'human law'. However, they have binding power only if in accordance with reason and nature,⁽¹⁾ but they are not identifiable with the natural law, which is merely their 'great grandmother', and which provides the obligation to abide by her rules and also by those decisions of the state or community⁽²⁾ which are the fruit of expediency and mutual consent:⁽³⁾ it would seem from these definitions then, that although a certain obligation arises from mutual consent, if its decisions are not morally in accordance with natural law they have no binding force. On the other hand civil law may make many things void for the sake of utility which would by natural law be obligatory.⁽⁴⁾ Natural law itself deals with many things which result from an act of the human will.⁽⁵⁾ Rules regulating both private and public contracts appear to be directly related to Roman law, but are more basically founded on natural justice.⁽⁶⁾

(1) Bk III.ch.XXII.V.3.

(2) A state is a complete association of free men joined together for the enjoyment of rights and for their common interest.

(3) Prol. 15. 17.

(4) Bk II.ch.XI.VIII.3.- But see Bk II.ch.II.V; 'For the Civil Law cannot ordain anything which the Natural law prohibits, nor prohibit what that ordains.'

(5) Bk I.ch.I.X.4.

(6) Bk II.ch.XII.XIII.2; Bk II.ch.XI.XIII.

It would indeed seem that any valid human law ought to be an application, however deviating and indirect, of reason and morality. Therefore human law, of any type, might seem to be the perfection of natural law, inasmuch as by applying its principle to particular cases it becomes more 'complete', being more 'specialised' and more meticulous in its moral precision. Indeed the difference between natural law and human law cannot merely be that the latter is concerned with what is amoral, or with what is particular, local or temporary. For human law deals more directly than natural law with such universal questions as private ownership and slavery,⁽¹⁾ while the law of nature offers many pronouncements about particular problems.⁽²⁾

There should at least be thorough interdependence between natural law and human law. All this surely points to the fact that human law is ideally part of natural law, and, as its offspring, proof of the creativity of the latter, and of man himself. It reveals that the law of nature can not be merely a readymade law which stands over man, advising and judging, but a law effectively working and discovering itself in and through him.

Sometimes human law is wholly concerned with the reinforcing

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- (1) "On the other hand, ownership and questions and problems relating to it are rooted more fundamentally in natural law than in civil or international law." (Bk II. ch.XI.)
- (2) Bk II. ch.XIII. XVIII.

with its compelling power, the natural law.⁽¹⁾ Sometimes human is dependent on divine law.⁽²⁾ According to Grotius's definitions, there is often considerable discrepancy between natural and human law, yet apparently the latter does not thereby lose all its validity, but retains a certain force from its origin in mutual agreement. Sometimes municipal has at least superior authority, if not morality, to natural law.⁽³⁾ There would seem to be a distinction between human laws which are a natural expression of the law of nature working in man, and those which are purely derived from human will.⁽⁴⁾

The act of creating and submitting to public tribunals although not utterly natural, must receive the full approval of reason, and although Grotius thought that their existence did not outlaw private war, it should restrict it.⁽⁵⁾

Grotius had stated that pacts of mutual obligation and the civil power are the source of human law. Sovereignty, particularly when it resides in one man, is not easily identifiable with either of these, yet it is obvious from some of Grotius's remarks that he thought that human law may in fact originate purely in the will of the sovereign, irrespective of the desires of those who are

(1) Bk II. ch. XIII. XVI. 2.

(2) Bk II. ch. I. XIV.

(3) Bk II. ch. II. V.

(4) Bk I. ch. I.

(5) Bk I. ch. III. I. 1-2- see pp. 626 below.

governed, and this he appeared to think not unjust.⁽¹⁾

But that type of government which is constituted for the superior, if not for the sole, benefit of a minority of one is unjust, even if not necessarily tyrannical. And the implied common consent which tolerates such a state of affairs is more of an implication than true consent. There is here no mutual pact or free association of men. Indeed, the lie is given to this profession of consent by the plea that protests must be ineffective. He allowed that anything which is manifestly wrong should not be done simply because the king commands it, but thought, nevertheless, that such a refusal implied no curtailing of kingly power in its proper exercise of authority.⁽²⁾

If sovereignty can be justified, as Grotius seems to have thought it could be on account of its divine origin and vocation, the human laws created by the sovereign, although not based on mutual obligation or necessarily sanctioned by natural law, might be expected to be manifestations of divine law, especially since observance of the law of nature, divine law and the law of nations is binding upon sovereigns, even if they have made no promises.⁽³⁾ The divine power of the sovereign, however, may mean no more than

(1) Bk I. ch.III. VIII. 14.

(2) Bk I. ch.III. IX. I.

(3) Bk I. ch.III. XVI.

that God had appointed him and left him free to err in his interpretation of the law. It seems that human laws relating to political problems are lacking in that more discriminating moral sense previously attributed to them.

"The moral goodness or badness of an action, especially in matters relating to the state, is not suited to a division into parts. Such qualities frequently are obscure and difficult to analyse." (1)

It is perhaps in the question of ownership and private property that Grotius's view of the relationship between human law and natural law is most intimately and explicitly seen. According to Grotius private property is not derived from natural law, for originally all men possessed everything in common.⁽²⁾ Private property, he thought, followed by agreement. The right to individual use with the corresponding prohibition of taking that which is another's were necessary corollaries.

Yet said Grotius, the universal right of everyone to have what he needs, is a law of nature which should restrict unconditional private ownership. There should be private ownership for all at least of the necessities of life. Indeed at times Grotius did base the right to property more directly on the law of nature.⁽³⁾

(1) Bk I ch.III. IX. 2.

(2) Bk II. ch.II.

(3) "For though a testament, like other acts, may assume a certain form by the Civil Law; yet its substance has a close association with ownership, and thus, is under Natural Law." (Bk II. ch.VI. XIV.)

"According to a law of nature, which has its origin in the very character and essence of ownership, alienation takes place in 2 ways..."

(Bk II. ch.VII. II. I.)

The development of the human race which led to the present mode of private ownership, Grotius thought, was in part a degeneration, in which the division of the world into countries was the first step. (1)

In urgent need the primitive right of common use survives as if common ownership had remained, since in respect to all human law, including the law of ownership, supreme necessity is excepted. (2)

In such cases however the injustice is not found in the one who has more than his share, but in the external situation, and even though he knows this he is not bound to take the initiative in remedying it.

Grotius allowed that all things have been distributed to individual owners with a benign reservation in favour of primitive right, but that reservation would seem to equal the obligations of the owner to give to him who lacks rather than, by neglecting him, forcing him into a position where he has to steal. Grotius agreed that every effort should be made by way of appeals in order to avoid theft, but such would no doubt be more successful if the owner felt obliged to give. However much mutuality may have

(1) Bk II. ch.II. II.3.

(2) Bk II. ch.II. VI.4.

existed at the origin of private ownership, it is no longer held so essential, or mutual responsibility would be taken more seriously.

This lack of mutuality is nowhere more evident than in relation to the ownership of other human beings, that is, slavery.

The very right to mutuality was regarded as having been lost or forfeited by certain crimes,⁽¹⁾ and very often men have had to sell themselves to secure their primitive right to the necessities of life.

(1) Bk III. ch.XIV. 1 - 11.

The Law of Nature and Law of Nations.

The proof of the existence and validity of the law of nations, ⁽¹⁾ as well as its efficiency, Grotius found in the common consent of many nations. In this the law of nations differs from the law of nature which is based on the principles of nature. Grotius claimed that he had cleared up the confusion about the difference and the relationship between the law of nature and the law of nations which he found in earlier writers. His distinctions, however, would seem to make the law of nations to a large extent amoral.

The law of nature is also to some extent proved by the witness of common consent to it. ⁽²⁾ If common consent is thus part of the evidence of the rationality and morality of the law of nature, the common consent which justifies the law of nations, (inasmuch as Grotius did not mean what is obviously true, that without common consent the law of nations is largely unworkable) would seem evidence of its morality and thus partly identify it with the law of nature.

The fact that 'common consent' proves both seems to imply that the distinction between the laws of nature and nations breaks

(1) Grotius distinguished between the old meaning of ius gentium laws common to many nations, and the modern usage, laws between nations. (Sk III. ch.VIII. 1-2)

(2) "... for National Law, as we have said, is in a certain measure, to be proved by such consent; and as to the Law of Nations, there is no other way of proving it." (Prol.46.)

down, or that we are left with a law of nature half unrelated to reason, or with a law of nations which does not necessarily have an ultimate sanction in morality, reason or God, but may simply be founded in the amoral will of men and be only applicable and workable as long as men agree.

What Grotius obviously desired was the coincidence of the two. For him the law of nature and natural rights do lead to and imply mutual obligations. International law relating to promises and pacts, should be based on natural law and individual morality.⁽¹⁾

Grotius shewed the variety of opinion and practice that exists regarding the relationship between the law of nations and the law of nature. Sometimes the irrationality and positivism of the law of nations is insisted on,⁽²⁾ and yet 'in the Law of Nations, Natural Law is included.'⁽³⁾ The Law of Nations may prohibit many things permitted by nature.⁽⁴⁾

Sometimes the law of nations and laws of nature coincide⁽⁵⁾ or the scope of the law of nature would seem to be greater than that of the law of nations, when for example the mutual consent

(1) Bk II. ch.XI.

(2) Bk II. XVIII. IV.2.

(3) Bk II. XVIII. IV.1.

(4) Bk II. ch.III. X.3.

(5) Bk II. ch.XIX.I.I.

which is the basis of the law of nations cannot override the natural rules of ownership.⁽¹⁾

Sometimes the law of nations demands more than the law of nature as when it demands a declaration of war.⁽²⁾ And according to the law of nature just killing can be carried out in any manner but according to the law of nations it is not lawful to kill by poison, probably because kings are more susceptible to poisoning than to any other death.⁽³⁾

Sometimes the law of nations demands less than the law of nature. At least it permits things forbidden by the law of nature. That which may be done to a slave with impunity for instance according to the law of nations, differs widely from that which natural reason permits. 'There is no suffering which may not be inflicted on a slave with impunity',⁽⁴⁾ and the descendants of the slave may be inherited by the master. Slavery, indeed, Grotius regarded as against nature but not against natural justice.⁽⁵⁾

By the law of nations, all wars which are conducted on both

(1) Bk III. ch. XX.IX.

(2) Bk III. III. VI. 1-3.

(3) Bk III. ch.IV. XV.I.

(4) "the effects of this right are unlimited, so that the master may do anything lawfully to the slave, as Seneca says. There is no suffering which may not be inflicted on such slaves with impunity... 'In all nations alike' says Caius, 'we may see that the masters have the power of life and death over slaves' (Bk III. ch.VII. III.I.)

(5) Bk III. ch.VII. I.I.

sides by authority of the sovereign power, are to be held just wars as regards their external effects.⁽¹⁾ 'Perpetually to slay is called the right of war';⁽²⁾ but according to natural law a war can be right for one side only.

It was agreed by the law of nations that hostages can be put to death, but to Grotius this is not just.⁽³⁾ Similarly, according to the law of nations, private combats to end war are lawful, but this conflicts with true reason and the precepts of God. Indeed the suggestion is that to accept the right of private combat is to treat the war too lightly.⁽⁴⁾ One condition alone can render such a combat just and patriotic from the point of view of the just side only and that is the likely danger of success of the unjust side. Here is revealed the tragic inadequacy of the law of nations at the time of war. For quite apart from the fact that it has been proved in itself morally if anything inferior to the law of nature, it may, even when sanctioned by the latter in view of its expediency, only be capable of a onesided application. To the just all things are just, to the unjust all things unjust. And so the most fundamental criterion for assessing the morality of an action is whether or not you believe yourself to be in the right.

(1) Bk II. ch.XVII. XIX.

(2) Bk III.ch.IV.V.I.

(3) Bk III. ch.XX.LIII.

(4) Bk III. ch.XX.XLIII.3-4. But c.f.p. 628 below and Bk II. ch.XXIII.X.

The law of nations also permits the killing of all the enemy without distinction, by the sheer 'right of war' which belongs to all who take part in a 'regular' ⁽¹⁾ war, just or unjust. ⁽²⁾ But according to internal justice killing is only justified in the sheerly essential defence of life or property and is due punishment. ⁽³⁾ Even killing in defence of property is strictly against love.

Nevertheless, Grotius deemed the innocent enemies who are killed in any war as merely 'unfortunate'. ⁽⁴⁾

The right of ownership of captured things is peculiar to a regular war according to the law of nations. By international law property taken from the enemy is legally held. ⁽⁵⁾ The law of nations is collective, and therefore admits injustice to individuals.

Distinction Between True and Nominal Justice.

These distinctions between what was variously or commonly held valid by international law and natural justice, were not only of idle theoretical interest to Grotius. After having sometimes given the impression that he had been in agreement with the various

(1) A 'regular' war is one on both sides public, and declared.

(2) Bk.III. ch.XX.XLIII.2.

(3) "What killing is just in war, according to international justice, we may see from what has been said. A man may be killed of purpose, or not of purpose. No one can be justly killed of purpose, except either as a just punishment, or so far as we cannot otherwise defend our life and property. And even this step, of killing a man for perishable, human property, is at variance with the law of charity. In order that punishment may be just, it is necessary that he who is killed should have himself offended, and so offended, that a just judge would think death a fit punishment." (Bk III ch.XI.II.)

(4) Bk III.ch.XI.III.I.

(5) Bk III.ch.VI.XXVII.

rulings of international law which, he had defined, in the tenth chapter of the third book he made what, for a lawyer, must be called a confession of faith. He 'retraced' his steps, made a firm distinction between 'law' and 'right' and repeatedly affirmed the superiority of real and natural justice over legal justice.⁽¹⁾ There are many things which are said iuris esse aut licere but which exorbitant a recti regula. He thought that if the cause of war is unjust, though the war be regular in manner, all acts arising from it are unjust according to real internal justice.⁽²⁾ And even justice can be transcended by humanity. Earlier he had written that Christians indeed should set love above justice.⁽³⁾ He approved individual restraints of justice, and noted that among good men the laws of war differ from the rights of war. A lot, he said, of what is customary and conventional and passes for international law, is not really good or just. There are of course different 'laws of nations', and some are superior to others, but in general they often allow things which violate humanity. The agreed consent and will of nations is for Grotius, obviously not sufficient justification.

There is no doubt then, that Grotius intensely desired that international law should firmly respect real subjective and individual justice, and that he would base his international law ideally on natural law.

(1) Bk III. ch.X. ~~XXXX~~

(2) Bk III. ch.X.

(3) See above pp. 587-8

Nevertheless he had carefully distinguished natural law from international law, and did so on the basis of the common consent underlying the latter. It seems important therefore to ask what is the moral force of such consent in Grotius's thinking. Common consent is of course implied in any system of national as well as international law, and although in one sense it might seem right that any joint activity whether national or international should be based on a common will, in itself the morality of this is separable from the morality of any particular decision and action. A common consent to worship the devil or to plot a massacre could on no grounds be considered moral, however unanimous and united the worshippers or murderers. The morality of any corporate action must be found and it is obvious that Grotius so found it, in its intrinsic justice.

Perhaps the question of most consequence is whether such intrinsic morality or justice of group activity differs in itself from that of individual activity. The stress Grotius laid on common consent actually emphasises the power of the individual wills of which it is made up.

The Ultimate Importance of the Individual in Grotius's
Specific Teaching on War.

In approaching the subject of war Grotius's chief aim was to limit warfare. He first, therefore, made a distinction between private and public war and ruled that the former was only occasionally permissible. A Public war was one waged by the sovereign power, and however just its cause it must not be waged unless likely to be of more benefit than harm to the major part of the nation. The legitimate methods of warfare were his next concern, and he made a distinction between legal requirements and temperamenta; throughout all these distinctions, however, he stressed the individual responsibility of those who 'mingle in a war' ⁽¹⁾ His justification of war was mainly based on the fundamental morality of self-defence; at times he drew an almost complete analogy between individual and communal self-defence, justice and punishment. ⁽²⁾ Self-defence, since it is a matter of urgency, need not wait on law and judgement, and self-preservation thus justifies withdrawal from the state's normal rules. ⁽³⁾ He allowed that the individual has a right to defend himself even if this means killing someone who is subjectively innocent, since 'Nature... cares much less for ties of society

(1) Bk III ch.1; Bk I. ch.11.

(2) Bk I. ch.11.1.11.

(3) Bk III.ch.xx.XXX 11.1.

than for the defence of the individual.'⁽¹⁾ At the same time, since even a just enemy has not a true and intrinsic right to kill innocent subjects except in such defence, if they do carelessly, needlessly or purposefully kill those who are innocent on the unjust side these latter may righteously defend themselves.⁽²⁾ Grotius took care to emphasise that this did not mean that the war was thus just on both sides, but it does mean that for him the individual ruling and individual justice transcended the collective. It was a recognition that there is justice and injustice on both sides in a war, and indeed that this mixture is within the individual himself.⁽³⁾

Elsewhere Grotius stated explicitly that a war may be subjectively but not objectively just on both sides,⁽⁴⁾ and he warned against making wars rashly even in a just cause. Even if the justice of a war is assured, it is mostly more right and pious, especially for Christians, to surrender their rights.⁽⁵⁾ Forgiveness rather than punishment is exhorted, and Grotius, noted that Aristides commended this to cities also.⁽⁶⁾ Christians above all should forgive freely, and even our duty to ourselves might teach us not to pursue our own rights. Anyone who undertakes a war should be sure that he has strength as much as - or even

(1) Bk II. ch.I.III. and IV.I.

(2) Bk II. ch.XXVI. VI.I.

(3) Bk II. ch.XXVI. VI.2.

(4) Bk II. ch.XXIII. XIII. 1-2

(5) Bk II. ch.XXIV. I.

(6) Bk II. ch.XXIV. II.3-4

more than - justice on his side,⁽¹⁾ and the wars which may not or ought not to be avoided, are rare. Indeed Grotius stressed that rather than rejoicing in the justice of war, the wise man will grieve about it, for since the justification of war is its only sanction for good men, it is sad that it needs to be justified. This attitude no doubt added to his insistence that in doubtful cases of war, the least unjust course of action should be taken.⁽²⁾ The best thing is to be wise oneself, the next best is to be guided by others. In doubtful political matters, the king should consult his wise counsellors.⁽³⁾ In cases likely to lead to war, if one side agrees to arbitration, it is wicked to fight. Christian kings and states especially are bound to try this way of avoiding war, and congresses of Christian powers should be held.⁽⁴⁾ And here Grotius seemed to see in the practice of Single Combat a method of deciding a war 'the use of which does not appear to deserve altogether to be repudiated' and he quoted without comment the practice of kings fighting out the issue.⁽⁵⁾

In discussing whether or not a soldier who is in doubt about the justice of his cause should fight, he noted that most writers were of the opinion that he ought to obey, and he himself

(1) 'Then only is the time for war, when we have right on our side, and, what is of the greatest consequence, strength also.' (Bk II.

(2) Bk II. ch.XXIII. II.2.

ch.XXIV.IX.)

(3) Bk II. ch.XXIII. IV.1.

(4) Bk II. ch.XXIII.VIII.3.

(5) Bk II. ch.XXIII.X. But c.f.p. 622 above, and BkIII ch.XX.XIIII..

gave many examples of the incomplete moral standing of the slave, comparing the soldier with him. It has been seen that Grotius believed that subjects may be so innocent that a war can be subjectively just on both sides. He himself preferred that subjects in doubt should choose disobedience rather than the moral danger of fighting unjustly. Disobedience in such circumstances is sinless and a lesser evil than homicide. Here he acknowledged and followed Adrian, 'our countryman, who was the last Cisalpine Pope'. (1) He thought that the individual should be well informed about the causes and circumstances of any war, since the people are the 'executioner'. (2) And he pointed to the Hebrew practice of making witnesses begin an execution. (3) He did, on the other hand, sanction the king's employment of morally bad subjects on the ground that God makes use of the spontaneous acts of the devil and of impious men. (4)

Grotius believed that the individual transcends the state by virtue of God's ownership of his life (5) and although he thought that citizens ought normally to obey their rulers in the time of war, he upheld conscientious objection to warfare on the grounds that, as not only the apostles but Socrates said, every individual has the obligation to obey God rather than man. (6)

(1) Bk II.ch.XXVI. IV.4.

(2) Bk II.ch.XXVI. IV.6-7.

(3) Bk II. ch.XXVI.IV.9.

(4) Bk II. ch. XXVI.V.I.

(5) Bk III. XI. XVIII.I.

(6) Bk II. XXVI. III.I.

The other main ethical question involved in war which Grotius discussed was deceit, and here also he based his attitude on individual morality. He despised mercenaries on the ground of their immorality 'whose motto is the right is where the best pay is', rather than acknowledging their usefulness to a just side.⁽¹⁾

In spite of his concern to preserve individual justice and rights, he nevertheless stated that public is to be preferred to private good, although he acknowledged that even in public wars the main motive is likely to be self-concern,⁽²⁾ even though the wish to help allies and others be another inspiration. Although the sovereign would appear to have the right to hand over any subject to the enemy, if this will benefit the community, only by the law of charity or goodwill and by no state law, can an individual be called to voluntarily sacrifice himself,⁽³⁾ for a man may reasonably prefer his own life and property to those of others. As regards the degree of responsibility that we have for the defence of others who are not our own compatriots or allies, but friends to whom we have made no promises, Grotius's position appears to be that a man is called upon to defend others only as long as this does not greatly inconvenience himself.⁽⁴⁾ His respect for the freedom and rights of the individual is therefore considerable.

(1) Bk II. ch.XXV.IX.I.

(2) Bk II. ch.XXV.VII.

(3) Bk II. ch.XXV.III.3.

(4) Bk II. ch.XXV.VII.1-2.

GENERAL RELATION BETWEEN THE STATE AND THE INDIVIDUAL.

In spite of the fact that Grotius ruled that public authority was normally needed for a war to be just, he seems to have realised that warfare involves so much individual activity that a purely corporate ruling on it is not adequate. But Grotius did have in a sense, a mystique of the state. He regarded a people as a community which has one name, one habit, and one spirit which is its 'full and perfect common participation of civil life,'⁽¹⁾ and which produces sovereignty, by which bond the state is held together. A state is an artificial body. In a sense it is temporary, for it may disappear either by destruction of the body or cessation of the form.⁽²⁾ But Grotius disagreed with Aristotle in that he held that change of form need not alter the spirit, and he pointed out that the Roman people were the same under kings, consuls or emperors.⁽³⁾ The state really disappears if the participation in common rights no longer continues. The jurist is concerned with the common participation of right and authority in a state, the politician with the relations between the governing and the governed.⁽⁴⁾

Grotius drew an analogy between the state and natural bodies and in certain circumstances natural organisms such as a large family.⁽⁵⁾

(1) Bk II. ch.IX.III.1-2.

(2) Bk II. ch.IX.III.IV-V

(3) Bk II.ch.IX. VIII.1-2

(4) Bk II. ch.IX.VIII.2.

(5) Bk II. ch.IX.III.2 and Bk III. ch.VIII, II.I.

Although the common spirit must persist, there is allowance for the disappearance of individual members. National boundaries, and thus state allegiance, are to an extent arbitrary, and individuals have the freedom to transfer from one party or state to another. ⁽¹⁾ The disadvantages of the artificial nature of the state can be seen, for example, when the community imposes a false role on its citizens in that all those within enemy boundaries during a war are 'enemies' by international law. ⁽²⁾

The existence of the state introduces a new type of morality. It is acknowledged that there is something intrinsically good in mere adherence to one's own party. ⁽³⁾ And more humanity and justice are due to nations than to individuals, inasmuch as the former are larger:-

"Equity, which is required, and humanity, which is praised towards individuals, are the more requisite and praiseworthy towards nations and parts of nations, inasmuch as the injury or kindness is greater with the number." ⁽⁴⁾

Peoples have the same rights as individuals, and are like individuals inasmuch as they may concede rights to others, but kings have wider power than individuals. And the larger community has an overruling right over smaller concerns. ⁽⁵⁾

The constitution of the monarchy affects the relationship

(1) Bk III ch. XX. XLI. I.

(2) Bk III. ch. IV. VI-2 and VI

(3) Bk III. ch. XI. XVI. 4.

(4) Bk III. ch. XV. 1.

(5) Bk III.

between monarch and people.⁽¹⁾ Sovereign power is in a sense temporary, since it is conditional upon the power of the people, and the state is a voluntary entity, 'measured by its primeval will', although those who unite to form a state contract a certain 'perpetual and immortal society'. Public and private consent are involved, Grotius considered them together on the assumption that they have the same pattern. He thought patriarchal society superior, and that status in a partnership is partly dependent on ownership and property.

There is no doubt then that Grotius allowed considerable influence to the part played by natural and municipal law in shaping and making effective international law. To the international lawyer Grotius is a middleman. Pufendorf for example allowed only Natural Law and reason as the source of law, the positivists only positive law. Grotius took his arguments from both sources. But he has been blamed for thus basing his international law, either directly or indirectly by means of municipal law, on natural law, and making it only 'incidental' to the latter. He has been blamed, too, for having no conception of a 'natural law of states' as distinct from a natural law of individuals.⁽²⁾

If this is so, he was in less danger of thinking of the state as a personality in itself, as an organic being, and thereby of allowing the state to engulf the individual both in himself

(1) *St. III. ch. XX.*

(2) W.S.M. Knight: The Life and Works of Hugo Grotius, pp.199-201.

and in his moral responsibility.

This does not mean that the state is not an organisation in its own right, but it does mean that it cannot be taken for granted that it is completely analogous to other organic entities, such as the individual or the family. When a statesman attempts to conduct a war by referring to his allies as brothers and cousins, or when he explains national financial policy by the example of a private bank account or a piece of cake, one must be immediately suspicious of the emotional implications of these methods.

The morality of states must be different from that of individuals, but that there should be no resemblance is surely unreasonable. Individual opinions and attitudes on political matters will surely be most influential.

Grotius certainly found a strong resemblance between the organisation of an individual and a state. He often applied a rule or related a question to 'private persons, or kings, or those whose mutual Rights (and Obligations) resemble those of kings, such as Rulers of peoples, or free Peoples themselves;'⁽¹⁾

(1) Bk I. ch.I.I. Prol.1. "Add that all Christians are members of one Body; are commanded to bear each other's sufferings and sorrows: and as this applies to individuals, so does it to peoples, as peoples, and to kings, as kings. Each must serve Christ according to the power given him." (Bk II. ch.XV.XII.)
 "... that it might be clearly known that the war was undertaken... by the will of the two peoples or their heads." (Bk III. ch.III.XI.)

he acknowledged that society is based on individual needs and intentions, and that distributive justice can be applied to and by both private persons and states. An association of states he regarded as analogous to a defensive association of individuals.

At every turn however, he shewed care to preserve the rights of the individual. Instituted justice, he reckoned, did not entirely do away with 'the old natural liberty.'⁽¹⁾ 'The right of inflicting punishment is, by natural law, in the hands of every man'⁽²⁾ and by the Law of Nature, authority is given to the just. He quoted with approval Aristotle's assessment of justice as an essentially human rather than political virtue,⁽³⁾ and was careful to distinguish between the collective punishment which was an inevitable corollary of genuinely collective guilt⁽⁴⁾ and that which is quite unjust to individuals. He ruled that it is quite unfair for a people to suffer for the crimes of its king, and based this on analogy with the family, that it is not right for children to suffer for the sins of their parents. God wasted the people with pestilence as a punishment for the sin of David, but this, as a matter of fact, was a punishment of David, since the punishment of his people is the sharpest punishment of

(1) Bk II. ch.XX. VIII.5.

(2) Bk II. ch.XX.IX.2.

(3) "As Aristotle says, prudence is properly the virtue of a ruler, but justice is a virtue which belongs to man as man". (Bk II. ch.XXVI. IV.VII.)

(4) Bk II. ch.XXI.VII.I. "There is even a participation of punishment by communication between the general body and individuals; for, as Augustine says, The general body consists of individuals."

offending kings. But men may never lawfully execute it.⁽¹⁾

In any corporate action which is criminal, 'the fault lies at the door of the individuals who have consented to the act, not of those outvoted by the others.'⁽²⁾

Any sort of compulsion including political compulsion, of anything immoral he deemed quite unlawful.⁽³⁾

The power of the individual or the minority upon the community can be strong. But he did accept that according to natural law, the majority have the right to administer for the whole community, unless previously arranged pacts or conventions legislate against this.⁽⁴⁾ He noted how 'God himself, who is the supreme Lord of men, often spares the whole body, though large, for the sake of a few good men.'⁽⁵⁾

In wartime he thought the king has an overruling right over property, that individual property and rights are subject to the state and that individual property can be sacrificed for the state.⁽⁶⁾ Such deprivations, however, must be made good when the war is over. For war is 'far removed from the nature of a contract'.⁽⁷⁾

(1) Bk II. ch.XXI. VII-XVII.

(2) Bk II. ch.XXI. VII.2.

(3) Bk III. ch.I. XXI.

(4) Bk II. ch.V. XVII.

(5) Bk III. I.IV.3.

(6) Bk III. ch. XX.V.

(7) Bk III. V.I.

The whole people should give their consent to the king, and in necessity sovereignty can be transferred to some of the people. But sovereignty does not everywhere belong to the people, but rather is shared by ruler and people.⁽¹⁾ The sovereign power is supreme and not subject to anyone else, the special subject may be one or two persons, but the common subject of sovereignty is the state. The whole legislative virtue resides in the sovereignty, which is of a higher order than other things. Certainly the sovereign authority does not exist in a mere name.

The form of government and the distribution of power between One and Many depends on circumstances.⁽²⁾ Complete and utter equality in government is impossible, he thought, for the governed cannot always govern, but the good of the governed is usually the object of government, and God is directly responsible for those in authority.

Grotius distinguished between the royal and private acts of the king. In royal acts what the king does is held to be done by the community.⁽³⁾ The people have some moral responsibility for the actions of their kings and in any decision the ruler must be assured that the majority of his subjects will benefit. The king

(1) Bk I. ch.III. VIII.1.

(2) Bk I. ch.III. VIII.

(3) Bk II. ch.XIV. 1.2.

may share in the crimes of his people by condoning when he should prevent them.⁽¹⁾ All kings are bound to observe natural, divine and international law,⁽²⁾ but there can nevertheless be slavery in government. There are many examples of mixed sovereignty, where the people can choose the sovereign and decide the limits of his power. The state has a superior right over us and this prohibits any natural rebellion for the sake of peace. The state, on the whole, furthers peace, even if its actions are partly selfish. Evil, therefore, must be endured rather than such peace broken.

Even public figures, such as magistrates, may not resist.⁽³⁾ In all cases, particular respect is to be shewn to the king. This more or less 'pacifist' position in relation to tyrants is in accordance with tradition, and in Grotius it certainly seems to be due partly to his understanding of the state as an extension of the family. For he certainly entertained the idea that a foreign nation can attack a tyrant even though his own subjects may not do so.⁽⁴⁾

Kings, and rulers in general, have a responsibility not only for their own states but for human society in general.⁽⁵⁾ and at the same time the king has a serious responsibility for the behaviour of his own people,⁽⁶⁾ although not for every individual act. Rulers

(1) Bk. II. ch. XXI. II-III.

(2) Bk I. ch. III. XVI. I.

(3) Bk I. ch. IV. VI. I.

(4) Bk II. ch. XXV. VIII. 3-4.

(5) Bk II. ch. XX. XLIV. I.

(6) Bk II. ch. XX.

share in the crimes of their peoples by permitting and allowing them, or commanding ill deeds. The general body consists of individuals and therefore there must be a relationship between communal and individual guilt and punishment. But in any majority decision or act, the fault lies with unwilling or 'outvoted' individuals; and they should not be punished for it.

SUMMARY OF GROTIUS'S POSITION.

It would seem, then, that Grotius's position was in many ways realistic. He took notice of the individual and the corporate aspects of a political community, and, as cleanliness is next to godliness, he accepted common consent as next to justice. He was anxious, however, that just as mutual agreement and any common action arising from it must be respected, such should be in line with justice and righteousness. In the context of community decisions and life he was concerned to allow the fullest individual liberty, freedom of conscience and respect for individual rights.

He was, however, sometimes a little too willing, as in his acceptance of the power of the king, to accept implied for real consent. Sovereignty, as well as common consent to something wrong, can breed injustice.

He was ^{an} evangelist for the rule of justice in international relations. In spite of his professing to distinguish clearly between the law of nature and law of nations, he confused them in theory, and proved that in practice it is often very difficult to distinguish between them. He was so enthusiastic for the potentiality and value of international law that he was eager to

acknowledge it wherever it existed. But at the same time he obviously did not reckon 'common consent' as guaranteeing adequate moral foundation, or existing international law as necessarily satisfactory.

He made a rigid distinction between what was legal and what was just, and many times shewed their contradiction and upheld justice. It is this, no doubt, which partly causes Knight's statement that he was establishing a Protestant ethic as a foundation for a theory of world unity.⁽¹⁾ But it is doubtful whether his understanding of justice and natural law was distinctively Protestant. As Knight himself points out, Grotius was indebted to 'Aristotle, Cicero and the Stoics, Augustine, Aquinas, Soto, Molina and Suarez'⁽²⁾ for his conception of justice and was thus 'in line with the scholastic succession.' He was, in fact,

'one who was handing down the moral treasures of the past guaranteeing their infinite and proved value and pointing, as he did, to the place wherein they have rested and ever been available and actually drawn upon, during all ages.' (3)

It is unfair, Knight thinks, to call Grotius an originator.

Del Vecchio agrees, and reckons that Grotius is no longer

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- (1) W.H.M. Knight. The Life and Works of Hugo Grotius. pp.211-212
 (2) Grotius admired Suarez. In his letter of 15.10.1633 to J.Cordesius, in ed. of the Epistolae of Grotius, Amsterdam, 1687, p.118, he referred to him as 'homo in Philosophiae tantae subtilitatis ut vix quemquam habeat parem'.
 (3) Ibid., p.202.

acclaimed as an original thinker of any outstanding theoretical interest but is rightly recognised for his power of systematising and his great influence. (1)

The natural law theory of Grotius, although not so elaborately worked out as that of the scholastics, was none the less largely inherited from them. Grotius had the same belief that reason is a divine gift to man and that by its use man participates in the Eternal Law, and he seemed as optimistic as the Thomists about its moral utility and man's ability to know and obey it. Indeed his theory of natural law seemed at times even more naturalistic. He had the same blindness to the frequent discrepancies between that which is natural and that which is rational or moral. He did not take fully enough into account the extent to which the 'natural' in man is savage or stupid, and he seemed quite unaware of the burden of reconciling that which is bad in nature, inside and outside man, with a good Creator. The natural sociability of man, on which his natural law is largely grounded, is morally ambiguous, and although there is a sense in which a natural right can outline a natural duty, society makes for a conflict as much as for a satisfaction of mutual rights. And a higher than a natural law may alone be able

(1) Del Vecchi; Philosophy of Law, pp.66-72 (an American Translation of Lezioni Di Filosofia Del Diritto.)

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to transcend such a situation. Grotius sometimes, for example, accepted selfishness as completely in accord with natural law, as when ⁽¹⁾ he said a man has an 'unlimited moral right' over anyone who threatens him, and when he agreed that it is perfectly natural and just to save oneself at the expense of others.

It is doubtful whether these aspects of his natural law morality can be put forward as distinctively Christian, whether Catholic or Protestant. Indeed, Grotius's distinction between and harmonising of natural law and divine law is in theory and practice somewhat doubtful. ⁽²⁾ Far more willingly than Aquinas did he recognise the superiority of revealed to natural ethics, and their superior claims on men, for he did not, in fact, relegate all Christian morality which transcends natural law to counsels which are mere recommendations rather than commands. ⁽³⁾ He did on the other hand, still accept the difference between counsels and commands.

His consideration of the relevance of Christianity to war was indeed far more detailed and thorough than was Aquinas's, and he was more insistent on the Christian's right, if not duty, to absent himself from such activity. At the same time, he noticed, as Aquinas did not, that Jesus gave no specific teaching on war

(1) See p. 604 above.

(2) See pp. 575-588 above.

(3) See p. 587 above.

itself. Yet he accepted Aquinas's interpretation of the prohibition of individual self-defence as a prohibition of anarchic vengeance which should more properly be carried out by public authority.

His own attitude thus seems a little ambiguous. At times he spoke as if Jesus' teaching on non-resistance was commanded rather than counselled, at other times he used such powerless facts as that the old Jewish laws of judgement and punishment were in existence during the life of Jesus to prove, somewhat unjustifiably, that war and retaliation can therefore exist parallel to His very different teaching and way of life.

It is by his allowing the individual a greater importance, more freedom and a more active part to play that Grotius's thinking is most strongly marked off from that of Aquinas. It has been seen that the ultimate supremacy of the individual was allowed for, in theory by Aquinas, but it never became so practically significant, or pointed, and it was certainly not allowed much scope in his war articles. Grotius's concern for individual justice was perhaps most explicit when he emphasised that nature only permits retaliation against the offender himself, and any less accurate punishment is not excused by the fact that '... the enemy is, by a sort of fiction, conceived as forming one body.'⁽¹⁾

(1) Bk III. ch. XI. XVI.2.

Grotius was writing at a time of transition from the medieval to the modern period, a time when the authority of Empire and Church, and their alliance, had ended. The hierarchical conception of society was giving way to the contractual and this in itself, in theory, distributed individual rights more widely than before. This no doubt partly accounts for Grotius's making the individual central even in the situation of war between states, (war is proved to be the breakdown of communities 'morally' and in other ways) and for his so largely basing his state and interstate morality on individual natural law.

Dr. Oppenheim firmly upholds the significance of individual morality even for relations between states. International law, he thinks, although primarily concerned with relations between states is nevertheless indirectly concerned with the actions of individuals who represent these states.⁽¹⁾ He quotes Westlake's opinion that 'the duties and rights of states are only the duties and rights of the men who compose them', and concludes that international law must inevitably be founded on principles of morality and law which are relevant to individuals.⁽²⁾ Individuals have international rights and duties made plain to them by the municipal law of the state.

(1) International Law, Vol.1.p.20.

(2) This seems to be the current Catholic position. A.C.F. Beales, who bases his summary of the principles of international order on Taparelli, the Peace Note of Benedict XV in 1917, the Fribourg and the Anglo-Irish-American Resolutions of 1931, and the Five Peace Points of Pius XII in 1939, states that '... since society exists for man, it follows that communities and states are subject, as moral persons, to the same moral

Customary and conventional rules, written and unwritten, treaties, decisions of courts and tribunals, arbitration, comity, are all sources of international behaviour and law, but all these 'corporate' manifestations are ultimately derived from municipal and individual sources.

Enforcement of international law has to be effected by the separate municipal law of every individual state. This is the weakness of international law at the moment, but it does show how very significant for the standard and effectiveness of international law is the municipal law of each state. Rules of international law are part of the municipal law and are themselves ultimately concerned with and addressed to individual human beings. Behind municipal law is the common consent, implicit or explicit, of the people, and such common consent cannot be divorced from common morality. And here is the justification for the enthusiastic 'evangelism' of Grotius.

And it is in this and in his Christian individualism that his Protestantism is most obvious. The hierarchical system has survived in the Roman church, but historically Protestantism has allowed a wider freedom of individual interpretation and standpoint. It is true that Grotius, though he would have believed in the

laws as are individual men. Public conduct, social and national and international, must be judged by the same canons as private conduct. (The Catholic Church and International Order. p.170.

priesthood of all believers, did not use the fact that clerics have always been forbidden warfare to prove that such is forbidden to all Christians, but he did not make such a rigid distinction as did Aquinas between an ethic for clerics only and an ethic for all Christians.

Grotius was both a realist and an idealist. As a realist he accepted the human situation and human law as it existed, whether righteous or not; as an idealist he started from there and pleaded that in every state and interstate relationship justice should be done and humanity fulfilled. But he stopped short there and did not sufficiently plead that the Christian virtues of forgiveness, repentance, tolerance, mercy and love be expressed in international relations. He did not apparently consider that Christian morality was appropriate to states, but he should have so considered this in so much as he regarded individual morality relevant. His whole theme was a plan that international relations should be based on righteousness and morality, and yet he did not complete his own syllogism.

Yet it could be fairly claimed that Christian morality is more firmly based on an understanding of the realities of human situations and human nature than is his teaching on natural law.

CHAPTER TWELVE

A BRIEF SUMMARY OF THE RULING ON WAR FROM GROTIUS TO THE PRESENT DAY

Grotius did hold that the distinction between just and unjust war had some legal consequences in that neutrals should favour the just against the unjust belligerent. But this idea was not taken up by later legal writers or in international practice. Moreover at the end of a war the rights of the parties depend on military victory, not in the least upon whose cause had been just.

Therefore the idea of just war became of little interest to the international lawyer. War was simply war. There were certain rights and duties for belligerents and neutrals arising out of the fact of war (ius in bello) but these were unaffected by any question of which side was in the right.⁽¹⁾ So in all nineteenth century text books on international law there were elaborate discussions about the circumstances in which it was legal for one state to use against another measures of force short of war but not about the legality of resort to war. Use of force short of war might be an international wrong of which the victim could complain: resort to actual war was not. This acceptance in the nineteenth and early twentieth centuries of the state's unlimited right to go to war meant that it was impossible to establish a specific right of self-defence in international law. Dr Bowett points out that the paradox of the positivist doctrine was that any state could on its own authority choose to interpret the pacific use of force in self-defence of another state as an act of war, and would thus 'transform the legal privilege of self-defence into conduct legally indistinguishable from its own.'⁽²⁾ The positivist denial of the doctrine of just war as established by Aquinas and by Grotius on the basis of natural law meant that war was acknowledged to be beyond legal control.

(1) Commercial interests ruled that in the nineteenth century the neutral state must refrain from giving direct military help to either side, but the neutral subjects could at their own risk sell arms or otherwise trade with belligerents.

(2) D.W. Bowett: Self-Defence in International Law, p.118.

Regarding the general relation of natural law to international law later eighteenth century and nineteenth century writers were practically unanimous in the positivist doctrine that the only source of international law lay in treaties and in the actual practice of states. They scorned earlier attempts to deduce international law from universal principles. The weakness of natural law ruling on defence, was Dr Bowett thinks that it was based on the right of self-preservation and this was limited only by the equal rights of others. The only correlation between the right of self-defence of one state and the rights and obligations of others was that the aggressive state must be at fault. Such a fault was looked on as mainly moral rather than legal, and was too subjectively determined. Dr. Bowett thinks that the decline of the Church and of universally accepted morality encouraged the tendency to think of self-defence as justifiable against any aggression rather than against objectively determined breaking of the law.⁽¹⁾

From the later nineteenth century on there were many treaties between pairs and groups of states agreeing to resort to arbitration or other peaceful means of settlement of certain types of disputes. Resort to war in breach of such a treaty would be an international wrong but there was no-one to punish it. The Covenant of the League of Nations first attempted to provide for sanctions against a state resorting to war in specified circumstances in defiance of the

(1) Ibid. p.7.

covenant. It did not cover all cases of states resorting to war, or even war in breach of a treaty.

The wars of the twentieth century and the Nazi abominations led to a reaction against positivism and a feeling even among international lawyers that a thing is not justified merely because it exists, and that some attempt should be made to establish the principles of what international law ought to be. Hence some aspects of the Nuremberg decisions, the statement of fundamental principles in the Preamble of the United Nations Charter, and the movement for international guarantee of 'fundamental human rights'. The Nuremberg and Tokyo trials introduced an important novelty in accusing and condemning individual German and Japanese leaders for waging aggressive war in defiance of treaties. This is a revival of the idea of illegal war with a new addition, an international court imposing punishment on the guilty individual. The Nuremberg Judgement, however, illustrates only to some extent the present trend towards imposing responsibility on individuals for acts which, if done by a state, would involve state responsibility.⁽¹⁾ The individuals judged at Nuremberg and Tokyo were acting for their states, but the problem with which international law now has to deal is that of the international responsibility of individuals not acting on the authority of the state. Recent development of international society

(1) The Tribunal for the Far East stated 'A conspiracy to wage aggressive or unlawful war arises when two or more persons enter into an agreement to commit that crime.' (C.A.Pompe: Aggressive War on International Crime. p.226)

has promoted an increasing economic interdependence between states, which occasions opportunities for harming them which cannot yet be regulated by international law.

"The new techniques of subversive activities and ideological propaganda, for example, call for a specific regulation..."

and

"... afford to individuals an unprecedented power of endangering a state's security." (1)

The Nuremberg trials also introduced the charge of 'crimes against humanity' which could apply to things done by the German leaders to German subjects in Germany, an assertion of the supremacy of international law over national law, and of an international law based not on existing practice but on moral principle. This idea, influential also in the Mandate provisions of the Covenant of the League of Nations and the Trusteeship provisions of the Charter of the United Nations has also inspired the Declaration of Human Rights (1948) and the setting up of the European Commission and Court of Human Rights. 2/

The Charter of the United Nations provides an elaborate system under which it is almost impossible for a member state legally to use force (the Charter refers to 'force' in order to avoid quibbling about whether in any particular case there has been war in the technical sense) save in self-defence or under the auspices of the United Nations. The laws of war (ius in bello) relating to types of

(1) Bowett: Self-Defence in International Law, p.271.

weapons, bombardment of towns and treatment of prisoners, depend, on treaties such as the Hague and Geneva Conventions, and the interpretations of these. s/

In the twentieth century there has thus been a revival of the idea of the iustum bellum, at least inasmuch as, on the basis of defence being a lesser sin than aggression, one side could be considered as more right than the other. Self-defence is indeed the only use of violence now allowed by international law. The analogy between persons and states in medieval natural law meant that territory was analogous to the body of an individual. Territorial integrity was therefore the right above all, and indeed it still is a fundamental and essential basis of state relations, though lately the right to defend political and economic independence has developed. Any right to self-defence should be determined objectively by an impartial organ or tribunal which is representative of the international community as a whole, since it is relative to delictual conduct. Insistence on the fault of the enemy is thus essential for lawful exercise of self-defence today and Dr. Bowett remarks that X

"This insistence upon fault on the part of the state against which self-defence is directed, the 'propter aliquam culpam impugnationem mereantur' of Aquinas, is perhaps, the most important contribution to the concept of self-defence made by those early writers." (1)

Self-defence which is self-help against a specific violation of the law is at the same time an exception to the general international

(1) Ibid., p.6.

legal prohibition of force, and is thus counted as a privilege, which justifies action otherwise not legal, and is allowable only as an urgent and absolute necessity, where there is no alternative. The Covenant, however, not only did not prohibit self-defence but made it obligatory outside the League, in the United States a movement developed for the complete prohibition of war but self-defence was still allowed. The Kellogg Pact did not restrict this right and United Nations Charter established it not as an absolute but as a legal right relative to the protection of similar rights in other states. At the same time the primary purpose of maintaining peace and security has 'overshadowed the problem of allocating legal responsibility for a conflict.' Dr. Bowett points out that the Security Council and the General Assembly are political not legal organisations, but if international law is to have proper authority, and self-defence is to be recognised as a legal concept, this question of legal responsibility must be determined.

The rules are now established, but the still outstanding difficulty is that of 'providing a tribunal with compulsory jurisdiction over states and, since individual responsibility may be involved, over individuals.' (1)

The work of the United Nations is not to support any defence against any aggression but to prevent or act against any 'threat to the peace, breach of the peace or act of aggression', and this may

(1) Ibid., p.275.

lead to action against a state which is exercising its right of self-defence. As Bowett emphasises,

"It has been too rarely observed that the function of a definition of aggression for the purpose of an organ empowered to intervene in the interests of international peace and security is quite different from the function of a definition of aggression or self-defence for the purpose of allocating legal responsibility." (1)

In the twentieth century also economic warfare means that there can no longer be such a clear distinction between the acts of governments and of individuals. 'Total' war in which all the resources of a country are mobilised for war almost obliterates the distinction between Armed Forces directly engaged in war and civilian population, on which much of the ius in bello before 1914 had depended.

In theological circles, a like awareness of common sinfulness has led to a hesitation about withdrawing, in the sense in which it is felt that pacifism does, from war involvement. At the same time the consciousness of common responsibility and sin has not prevented the possibility of distinguishing between the relatively good and just and the relatively bad and unjust sides and the necessity of associating oneself with the former.

(1) Ibid., p.254.

Protestants have on the whole professed abandonment of the precisions of the just war doctrine, but its usefulness in roughly distinguishing between just and unjust warfare has been retained.

Concentration on methods of warfare has gained a new significance because of the advent of atomic and hydrogen weapons. The difference in degree of these weapons is thought by some to amount to a difference in kind so that modern war constitutes a new phenomenon or problem. There is an increasing tendency to reject outright atomic weapons and the allout war they bring about, but to retain and approve limited warfare. Conventional weapons are accepted as being sufficiently discriminative to be used as instruments of justice, whereas atomic weapons are condemned as too wholesale in their destructiveness. Aggressive war, even for a justifiable cause, has been generally outlawed.

Christian pacifism is still a minority movement within the Catholic and Protestant churches, but its growth during this century indicates another theological reaction. Many 'situation' pacifists are of the opinion that although war in itself is not inevitably wrong, any war today is likely to spark off atomic conflagrations, and is therefore unjustifiable. The 'Christological' pacifist feels that the horror of atomic warfare is the logical development of man's acceptance of war in any form and that it only magnifies its intrinsic evil and stupidity.

C O N C L U S I O N

In spite of his ruling that defence against public evil is obligatory Aquinas might, since he believed in the supremacy of the individual conscience, have been persuaded to agree with Grotius that it is permissible and reasonable for anyone to take ultimately an individual moral or religious stand on the question of war, as long as the individual tries to understand and take into account the context of collective relationships in which he stands. The moral aspects of such relationships cannot be ignored either by the individual or by the group, state or church, but both morality and religion are, however social their results, rooted in the individual. The question of participation in an actual war seems particularly to call for an individual decision, and the present tendency in international law to underline and rule for the power and responsibility of the individual is a realistic and healthy one.

Aggressive warfare has now been generally outlawed by both lawyers and theologians, for both states and individuals.

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The basic ethical question, therefore, about which there is dispute is that of self-defence. It is the same problem for both individuals and groups except that the individual may feel a conflict between his own private answer and that of the nearest group to which he is in other ways most intimately related. The collective answer will, however, be correspondingly dependent on that of individuals within the group.

Both Aquinas and Grotius would agree, though Aquinas again with greater reluctance, that the perfect Christian answer is that of non-resistance, a love of whatsoever enemy which precludes killing him. Such a decision must be given from a deep personal level, for an ideal which includes sacrificing one's life for the preservation of an apparent murderer must seem to many irrational, stupid and socially dangerous, unless it is truly part of an interpretative pattern of existence which accepts the spiritual as basic and creative and self-sacrificial love as the profoundest power to which any lesser values might in their turn have to be sacrificed. If there is a unique Christian answer to participation in warfare this must be it. Non-Christian pacifism goes along with it at least part of the way, but the Christian will believe that the apparent impotence of pacifism is redeemed inasmuch as it is at one with the power of God; both non-Christian and Christian pacifists must feel

that saying 'no' to war involves much more than refusing to fight.

Even so, the difficulties of holding this as anything but an individual ethic are manifest, as political life and activity necessarily involve a degree of compulsion and of corporate agreement. Self-sacrificial love cannot of its nature be compelled, and is not likely to be the will of more than a minority. If any group should be capable of expressing it, it is surely the Church, and if the pacifism of the Church could become multilateral and evangelistic it might indeed be effective. This is why Grotius and Aquinas accepted natural law as the highest ideal which can shape national and political policies on war; where life is at stake revenge and resistance are more natural than self-sacrifice and more acceptable to the majority.

Analysis of the teaching on natural law in Aquinas and Grotius, however, throws into relief certain basic problems. In both thinkers its morality is harmonised or identified with Christianity so closely as to shew up conflict. The identification is on the grounds that man's nature is the gift and guarantee of God, the Creator, but the evidence of this Creator which can be found by looking into nature within and outside man is not so easy to reconcile with Christ. There is in some ways a serious and

direct contradiction between the apparent ways of the Creator and the apparent ways of Jesus, a contradiction made only too plain by this disagreement between the attitude to war of the natural thinking man and that of the person who follows the teaching and example of Jesus literally. c/

Man is a creature forged by immense and mysterious forces of life and nature which have built up his being through millions of eras not only by nurturing him protectively but by challenging him to conflict and struggle and developing in him a bitter will to exist. He has earned his survival by toil and endurance, a ruthless love of life and often desperate selfishness, as well as by the exercise of nobler virtues. He is charged with this powerful impetus to continue his destiny, and it is not surprising if, however altruistic and public-spirited he has become, in the last resort, at the last ditch, a desire to survive is a deeper instinct within him than self-sacrifice. To learn a new way at an advanced age is hard and the religious ideal that he should take no thought for his life but if necessary sacrifice it for the unworthy is out of keeping with his history, with what lies behind and around him. It may be a law of biological life that a corn of wheat has to die in order to yield fruit. Jesus chose an accurate analogy to describe the spiritual dying unto self which is abundantly fruitful. But it is a one-sided, a chance

and not an ontological analogy between the natural and supernatural. It may be infallibly true of the spiritual realm but no implication that this is the normal way of things in the natural world can be gathered from it. The survival of the fittest may apply to the spiritual as to the natural world, but the ways of surviving are different. Sheer physical power and selfish will to live win in nature, conflict and cruelty are part of the natural pattern. Even the Creator allows, although He may not will, cosmic actions and occurrences which cannot be called incarnations of love and mercy, inasmuch as they cannot be contained within a meaningful human understanding of these qualities. For the incarnation must mean that the human is a legitimate measure and interpretation of the divine as well as its expressions. Aquinas's doctrine of analogy need indeed amount to no more than an unintelligible similarity between God and man; that the creative process responsible for fashioning the malaria parasite to kill of millions of men that its own mean prosperity may abound is identifiable with the man who warned that he who calls his fellow a fool is in danger of hell fire, seems as elusive a piece of reasoning, however faith may be able to comprehend it. Cosmic as well as man-made atomic radiations, kill.

The relevance of this difficulty to the matter under

discussion is plain. War is a dramatic problem which uncovers many fundamental questions. The traditional attitude of the Church seems to betray that, whatever its confessions of faith, it has at such times placed its real trust in natural rather than spiritual power, and that it has partly closed its eyes to the differences between them. Any solution must attempt to meet these difficulties in terms of the Incarnation. Canon Raven approves such syntheses as he believes to be found in Aquinas's systematising for in them God, Christ and man, nature and grace are brought together. The natural and the spiritual harmonise, and Christ so reconciles God and man that his perfection is and through Christ is made humanly possible. Pacifism, so often condemned as unrealistic perfectionism becomes a practicable possibility through the radiating, spiritualising and integrating power of Jesus. Jesus, Canon Raven believes, not only gives practical power but reveals the hidden but already existent harmony between God and nature and makes possible a similar harmony within man, resulting in redemption and resurrection. He is the key to the mysteries of the creative process, he proves beyond doubt that his way of suffering love and self-giving goes with the grain of the universe and has all the power of God on its side.

In fact, however, it appears that the synthesis of Aquinas is not entirely satisfactory. Certainly that aspect of it so central to the question of war harbours a contradiction. The alternatives seem to be that either Canon Raven is wrong in thinking that Christ must be proved one with the heart of creation in order to be fully effective in human life; or that he is as misled in mistaking Aquinas's apparent synthesis for a real one as is his optimism about any possibility of a working harmony between nature and grace. He may, nonetheless be right in his faith in the ultimate synthesis and only wrong in believing in Aquinas's achievement of it with the implication that Aquinas's harmony would have been more complete if he had seen in suffering love the central creative and integrating power.

Certainly the law of nature has not proved an entirely satisfactory harmonising principle or meeting ground between the sacred and the secular, it has not been necessarily a stepping stone to the divine spiritual realm or to higher morality but sometimes a stumbling block. All the difficulties and uneasiness in the attempts to identify and reconcile even on the abstract level the laws of man's animal nature with more specifically rational activities and the divine law, make that only too clear. Such attempts in Aquinas and in earlier writers led to a confounding and contradicting.

Grotius, although he refused to allow the title of law to purely animal instincts nevertheless allowed much that is only too human into his natural law teaching yet at the same time made it one with divine law. The difficulty of making the Two Persons, the Creator and the Redeemer really relevant to human justice only results in an imperfect paradox. Outside the Catholic Church the specifically religious nature of natural law has of course now been generally given up, and even the belief in a natural law of secular morality has been shaken and fragmented. The classic traditions of natural law drew too close an analogy between the natural laws which the science of earlier days interpreted teleologically and the laws of human moral and spiritual development which were also thought to be of a predestined uniform pattern aimed at an end man did not have to create but only discover and follow. Modern science no longer labels observed laws of development and growth with any moral significance, or the maturity of a thing as its highest good. The older science identified too closely what does with what ought to happen, the normal as the right, and indeed had to do this as everything was thought to happen according to the will of the Divine Creator; it also identified too closely the non-human and the human. Modern science does not, however, evaluate natural processes in terms of divinity or morality.

God and moral purposiveness have been left out of nature and moral principles were for a time left out of human laws which strove to realise the remaining aim of mere expediency. Nevertheless, the recent return to a new search for some universal principles as a basis for morality and law proves the inescapable consciousness of man that whatever mysteries shroud God and nature, he himself is a moral being by nature and that his nature is a clue to his morality. This in spite of or because of the battle within him. The contradiction within him acted as an incentive to St. Paul⁽¹⁾ and the tragic conflict without him does not lessen but increases the urgency which inspires Schweitzer to strive to fulfil the unique potentiality of his humanity.

Whatever conflict lives within him it is as unwise for man to ignore the noblest and unexpectedly heroic elements in his make up as to gloss over his worst characteristics. The law of nature has in the past tended to explain man in terms of a reasonably low estimate of his abilities, it has called a law of mediocrity rather than of heroism divine. Whatever his natural background man may be more ultimately explicable in terms not of his origins but of his spiritual destiny. He must be true to his finest insights and those who believe, on the

(1) "I discover this principle, then; that when I want to do the right, only the wrong is within my reach. In my inmost self I delight in the law of God, but I perceive that there is in my bodily members a different law, fighting against the law that my reason approves and making me a prisoner under the law that is in my members, the law of sin. Miserable creature that I am, who is there to rescue me out of this body doomed to death? God alone, through Jesus Christ our Lord!

evidence of experience, that only by making Christ central can man grasp the absolute and know the deepest laws and realities of his nature, must be allowed to follow their faith.

Not everyone has such experience and conviction. The disorder and uncertainty in law and ethics today which are interpreted as due to man's loss of a generally accepted picture of himself which can help to pattern his behaviour, at least shew along what lines research has to continue. Meanwhile it is interesting in view of its direct relevance to the problem of war that the modest aim of survival is recognised by a modern professor of jurisprudence⁽¹⁾ as that element in natural law which remains central and indisputable. It is only a minimum content in the midst of other important but controversial aims but the fact that we do normally want to go on living is reflected in all our thought and language; we call anything which furthers survival good and anything which hinders it bad.

The need for legal as well as moral rules comes about because we have always with us the weak, the wicked and the parasitic, who will wish to take advantage of and at the same time to exploit social organisations; human vulnerability,

Thanks be to God! In a word then, I myself, subject to God's law as a rational being, am yet, in my unspiritual nature, a slave to the law of sin" (Romans 7. 21 - 25)

(1) See H.L.A.Hart: The Concept of Law, ch.IX

approximate equality, limited altruism and other elements of mutual interdependence occasioned by the finiteness and weakness of human understanding and will, make such legal safeguards possible. It is the lack of approximate equality between states, with their great differences in strength and vulnerability which makes international law different from and more difficult to apply than national law. Atomic and technological weapons might create a balance of power which would make international law workable and prove incidentally that physical force is ultimately more important to peace than law and justice.⁽¹⁾ The recognition of the right of self-defence as the one exception to the international legal ban on violence also proves how fundamental it is. This is not surprising for existence is basic to everything.

Christianity can go a long way towards accepting the furthering of life as an ideal. 'I have come that man may have life and may have it in all its fulness.' Any system of human law which is inspired by the aim of protecting and preserving human life should be fitted into a perspective which appreciates the true dimensions of human responsibility. Law mainly prohibits from obvious harm but if a man is to go beyond this mere prohibition, following the ideal of the promotion of survival

(1) Even Grotius said that it is more important to have strength rather than justice on one's side in war.

to its logical conclusions cannot but lead to the dedicated reverence for life of a Schweitzer. There is no clear limit to human potentiality and responsibility. 'Anything less than perfect love is destructive of life' and if we are not giving all our resources to the furthering of spiritual and physical life in a world where thousands die daily of starvation and emotional sickness, we are so far guilty. Every man and not only the criminal is vulnerable and dangerous, an anonymous friend or enemy of others, even, such is the dialectical logic of human relationships, guilty of the enmity of his friend. Everyone is a power for life or death, this is a matter of fact and not a histrionic statement. There is an invisible crime of murder by neglect, and our own right to life becomes perhaps a little more negligible if we accept this seriously.

Although a Christian is committed to the ideal of promoting the lives and health of others, he is not allowed it as an aim for himself. This may be because, however wholesome and legitimate in itself, it is dangerous in that it is bound to be in deadly competition with the lives of others. Certainly the collective force of this instinct and the fear of death are encouraging us to accumulate the building materials for a holocaust. Possession by all states of the latest nuclear weapons may, it is true, prevent a stronger state from overwhelming the weaker, but such protection from a probable, however imminent,

danger is expensive since it already costs the lives and health of thousands who need the essentials of existence.

The tragedy is that in one sense most men are largely ignorant or innocent of their involvement. The majority of men are content to live and let live, at least in that they have no intention or desire directly to harm others. Such vast precautions are felt to be essential because of the wickedness of a powerful minority. The most hopeful possibility is that the sanity of both the selfish and the saintly will outlaw war as lunacy. The law of nature, inspired by reason and the desire to survive will then have come full circle.

International law in any case will have an indispensable part to play in achieving this end. Its task of promoting security and justice among nations should have the strongest support of all Christians. Those Christians who refuse to fight believe that their right to life must be surrendered in the interests of peace, and in this they come close to the position of an international organisation which may have to overrule the right to national self-defence in the interests of the peace and security of mankind. True they meet here only to continue in different directions. International law desires a military backing, at least as a last resort, to ensure its policies,

whereas the Christian pacifist believes that spiritual power will in the long run be more successful and is more immediately right.

Yet at present international law is regarded by many as weakened and crippled - indeed as not properly law - because it has not this required backing of physical power, and because it has not yet received the blessing of all nations. Those who answer this challenge often argue that although international law is in its infancy it has already built up a remarkable authority and dignity and a quickly growing tradition, because it springs from those sources of custom and morality and respect for order which are the wellspring of all law. Although so far unarmed international law has often been a power for good and for peace.

The Christian pacifist or the person who follows a policy of non-violent resistance is somewhat in the same position. He has been attacked and criticised because his position is physically powerless and the privilege of only some nations, for in other conscientious objection is still outlawed as an eccentricity.

Both international law, Christian pacifism and non-violent resistance are pioneer movements but progress has often come about through ideals which have started in the defeatist position of being the possession of a minority. It does not need prophetic

insight to see that both an international legal system which goes a tremendously long way - as far as it believes safe - in saying no to war, and the Christian who believes that he must keep fresh the ideal of an absolute refusal, have a part to play in its final conquest, and that they have history on their side. Neither is guaranteed immediate practical success, but it is imperative that though they may disagree at some vital points, they should respect and as far as they can support each other. Law has done much to protect the right of conscience in some though not yet in all states.

If we consider human nature in its wholeness it may indeed seem realistic to believe that it needs tremendous restraints. The extreme Christian position may seem remote from these realities but if we consider the present international situation it does not seem so unrealistic to believe that finally an absolute love may alone be able to conquer the conflict. In the last war death and destruction were wrought at both Coventry and Kiel by the natural instincts of both aggression and defence. In the Chapel of Unity in the new cathedral at Coventry and in the church of St Nicholas at Kiel, relics of the destruction sent from the enemy countries witness to a measure of reconciliation

which has resulted from the desecration. Man's spirit can survive the worst of human evils but may be able to do so 'only by remembering that the true man is not one on the warpath for revenge. The true man is One on a cross, forgiving, even to the last deadly insult.'

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